THE STUDENT'S LAW COMPANION

IN FIVE VOLUMES.

EDITED BY

M. L. AGARWALA, B. SC., LL. B., (LONDON.)

VOLUME III.

Allahabad:

PRINTED AND PUBLISHED BY RAM NARAIN LAL,
AT THE NATIONAL PRESS.

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THE ROYAL CHARTER ACT.

The Indian High Courts Act, 1861.

24 & 25 VICT., CAP. 104.

An Act for establishing High Courts of Judicature in India.

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1. *Repealed by the Statute Law Revision Act, 1892.*

2. [illegible] William [illegible] ively shall consist [illegible] Judges, not exceeding fifteen, as Her Majesty may from time to time think fit to appoint, who shall be selected from—

1st.—Barristers of not less than five years' standing; or,

2nd.—Members of the Covenanted Civil Service of not less than ten years' standing, who shall have served as Zila Judges, or shall have exercised the like powers as those of a Zila Judge for at least three years of that period; or,

3rd.—Persons who have held Judicial Office not inferior to that of Principal Sadr Amin or Judge of a Small Cause Court for a period of not less than five years; or,

4th.—Persons who have been Pleaders of a Sadr Court or High Court for a period of not less than

24 & 25 Vict., cap. 104. ten years, if such Pleaders of a Sadr Court shall have been admitted as Pleaders of a High Court:

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than one-third shall be Members of the Covenanted Civil Service.

3. [*Rep. 41 and 42 Vict., c. 79 (Statute Law Revision Act).*]

Tenure o Judges, ar tion.

4. All the Judges of the High Courts established [illegible] pleasure: provided, that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor-General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

Precedence of Judges of High Court.

5. The Chief Justice of any such High Court shall have rank and precedence before the other Judges of the same Court, and, except as aforesaid, all the Judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their Patents.

Salaries, &c., of Judges of High Courts.

6. It shall be lawful for the Secretary of State in Council of India to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same: provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

24 & 25 Vict., cap. 104.

Provision for vacancy of the office of Chief Justice or other Judge.

7. Upon the happening of a vacancy in the office of Chief Justice, and during any absence of a Chief Justice, the Governor-General in Council, or Governor in Council, as the case may be, shall appoint one of the Judges of the same High Court to perform the duties of Chief Justice of the said Court until some person has been appointed by Her Majesty to the office of Chief Justice of the same Court, and has entered on the discharge of the duties of such office, or until the Chief Justice has returned from such absence;

and upon the happening of a vacancy in the office of any other Judge of any such High Court, and during any absence of any such Judge, or on the appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor-General in Council, or Governor in Council as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a Judge of the said High Court;

and the person so appointed shall be authorized to sit and perform the duties of a Judge of the said Court until some
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and has entered o
such office or until the absent Judge has returned from such absence, or until the Governor-General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting Judge.

8. [*Abolition of the Supreme Courts at Calcutta, Madras and Bombay, of the Court of Sudder Dewany Adalat and Sudder Nizamat Adalat at Calcutta, of Sudder Adalat, Foujdary Adalat at Madras, and of*

24 & 25 Vict., cap. 104.

ten years, if such Pleaders of a Sadr Court shall have been admitted as Pleaders of a High Court:

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than one-third shall be Members of the Covenanted Civil Service.

3. [*Rep. 41 and 42 Vict., c. 79 (Statute Law Revision Act).*]

Tenure of office of Judges, and resignation.

4. All the Judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure: provided, that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor-General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

Precedence of Judges [illegible]

5. The Chief Justice of any such High Court shall have rank and precedence [illegible] Judges of the [illegible] all the Judges [illegible] and precedence [illegible] r appointments, unless otherwise provided in their Patents.

Salaries, &c., of Judges of High Courts.

6. It shall be lawful for the Secretary of State in Council of India to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same: provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

ment, or of any Orders of Her Majesty in Council or Charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts at Fort William in Bengal, Madras and Bombay respectively, or to the Judges of those Courts, shall be taken to be applicable to the said High Courts, and to the Judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof and subject to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council. 24 & 25 Vict., cap. 104.

Provision as to pending proceedings in abolished Courts.

12. From and after the abolition of the Courts abolished as aforesaid in any of the said Presidencies, the High Court of the same *Presidency* shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof,

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rts respectively.

Power to High Courts to provide for exercise of jurisdiction by single Judges or Division Courts.

13. Subject to any laws or regulations which may [illegible] under this Act may by its own rules provide for the exercise by one or more Judges, or by Division Courts, constituted by two or more Judges of the said High Court, of the original and appellate jurisdiction vested in such

24 & 25 Vict., cap 104.

[illegible] 1 Court [illegible]

14. The Chief [illegible] from time to time determine what Judge in each case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several Division Courts as aforesaid.

Chief Justice to determine what Judges shall sit alone or in the Division Courts.

15. Each of the High Courts established under this Act shall have superinten- [illegible] may [illegible] call for returns and to direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, and shall have power [illegible] general rules for regulating the [illegible] rts, and also to [illegible] n the said Courts [illegible] that a form be provided, and also for keeping all books, entries and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the Sheriff, Attorneys and all Clerks and Officers of Courts, and from time to time to alter any such rule or form or table;

High Courts to superintendent and to frame rules of practice for subordinate Courts.

and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Courts: provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction, in the Presidency of Fort William, of the Governor-General in Council, and, in Madras or Bombay, of the Governor in Council of the respective Presidencies.

24 & 25 Vict., cap. 104.

Her Majesty may establish a High Court in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court

16. It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in India, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice, and of such number of other Judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies hereinbefore mentioned, as Her Majesty from time to time may think fit to appoint;

and it shall be lawful for Her Majesty, by such Letters Patent to confer on such Court any such jurisdiction, powers and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency hereinbefore mentioned;

and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the Chief Justice and other Judges of such Court, and to the Governor-General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the Chief Justice and other Judges thereof, and to the person administering the government of the said territories.

17. *Repealed by the Statute Law Revision Act.*

LETTERS PATENT FOR ESTABLISHING A HIGH COURT IN THE N.-W. PROVINCES.

Dated March, 17, 1866.

Recital of Acts.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the aith, to all to whom these presents shall come, reeting : Whereas, by an Act of Parliament passed 1 the twenty-fourth and twenty-fifth years of Our eign, intituled "An Act for establishing High ourts of Judicature in India," it was, amongst ther things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of

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for

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iam aforesaid, and that such High Court should onsist of a Chief Justice and as many Judges, not xceeding fifteen, as Her Majesty might, from time o time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared : Provided always that the persons who, at the time of the establishment of such High Court, were Judges of the Supreme Court of Judicature, and permanent Judges of thatCourt of Sadr Diwani

the Chief

ecome the

Chief Justice of such High Court, and that, upon the establishment of such High Court as aforesaid, the Supreme Court and the Court of Sadr Nizamat

24 & 25 Vict., cap. 104.

18. [*Repealed by 28 and 29 Vict., c. 15, s. 2.*]

Interpretation of terms.

19. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland or Members of the Faculty of Advocates in Scotland; and the words "Governor-General" and "Governor" shall comprehend the officer administering the Government.

Printed at the National Press, Allahabad.

LETTERS PATENT FOR ESTABLISHING A HIGH COURT IN THE N.-W. PROVINCES.

Dated March, 17, 1866.

Recital of Acts

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas, by an Act of Parliament passed in the twenty-fourth and twenty-fifth years of Our reign, intituled "An Act for establishing High Courts of Judicature in India," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at Fort William in Bengal for the Bengal Division of the Presidency of Fort William aforesaid, and that such High Court should consist of a Chief Justice and as many Judges, not exceeding fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared: Provided always that the persons who, at the time of the establishment of such High Court, were Judges of the Supreme Court of Judicature, and permanent Judges of the Court of Sadr Diwani Adalat or Sadr Adalat of the same Presidency, should [illegible] vithout [illegible] Chief [illegible] ne the Chief Justice of such High Court, and that, upon the establishment of such High Court as aforesaid, the Supreme Court and the Court of Sadr Nizamat

Adalat at Calcutta, in the said Presidency, should be abolished :

And that the High Court of Judicature so to be established should have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the said Presidency as Her Majesty might, by such Letters Patent as aforesaid, grant and direct, subject, however, to such directions and limitations, as to the exercise of original, civil, and criminal jurisdiction beyond the limit of the Presidency-towns, as might be prescribed thereby ; and save as by such Letters Patent might be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council, the High Court so to be established should have and exercise all jurisdiction and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act at the time of the abolition of such last-mentioned Court :

And whereas it is further declared by the said recited Act that it shall be lawful for Us by Letters Patent to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's Dominions in India, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice and such number of other Judges, with such qualifications as were by the same Act required [illegible]
pointed to the [illegible]
Presidencies, [illegible]
fit to appoint ; and that, subject to the directions of

the Letters Patent, all the provisions of the said recited Act relative to High Courts and to the Chief Justice and other Judges of such Courts, and to the Governor-General, or Governor of the Presidency in which such High Courts were established, shall, s far as circumstances may permit, be applicable to ny new High Court which may be established in he said territories, and to the Chief Justice and ther Judges thereof, and to the persons administerng the Government of the said territories :

And whereas We did, upon full consideration of he premises, think fit to erect and establish, and by Our Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland bearing date at Westminster, the fourteenth day of May in the twenty-fifth year of Our reign, in the year of our Lord one thousand eight hundred and sixty-two, did accordingly, for Us, Our heirs and successors, erect and establish, at Fort William in Bengal, for the Bengal Division of the Presidency of Fort William aforesaid, a High Court of Judicature which should be called the High Court of Judicature at Fort William in Bengal, and did thereby constitute the said Court to be a Court of Record :

Establishment of High Court

1. Now know ye that We, upon full consideration of the premises, and of Our special grace, certain knowledge, nd mere motion, have thought fit to erect and establish, and by these presents We do accordingly, or Us, Our heirs and successors, erect and establish, or the North-Western Provinces of the Presidency f Fort William aforesaid, a High Court of Judicature, which shall be called the High Court of Judicature for the North-Western Provinces, and We do

Secs. 2-4.

hereby constitute the said Court to be a Couri Record.

Constitution, &c

2. And We do hereby appoint and ordain t the said High Court of Judi ture for the North-Western I vinces shall, until further or other provision shal made by Us, or Our heirs and successors in that beh in accordance with the said recited Act, consist Chief Justice and five Judges, the first Chief Jus being Walter Morgan Esqr, and five Judges be Alexander Ross Esqr, William Edwards Es William Roberts Esqr, Francis Boyle Pearson Es and Charles Arthur Turner Esqr., being respecti qualified as in the said Act is declared.

Declaration of Judges

3. And We do hereby ordain that the C Justice and every Judge of said High Court of Judica for the North-Western Provinces, previously to tering upon the execution of the duties of his of shall make and subscribe the following declara before such authority or person as the Gover General in Council may commission to receive it

"I, *A. B.*, appointed Chief Justice [*or a Ju* of the High Court of Judicature for the North-W ern Provinces, do solemnly declare that I will fa fully perform the duties of my office to the bes my ability, knowledge, and judgment."

Seal.

4. And We do hereby grant, ordain, and app that the said High Court have and use, as occasion require, a seal bearing a device and impressio Our Royal Arms, within an exergue or label rounding the same, with this inscription, "The of the High Court for the North-Western Provin

And we do further grant, ordain, and appoint that the said seal shall be delivered to and kept in the Custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or, during any absence of the Chief Justice, the same shall be delivered over and kept in the Custody of the person appointed to act as Chief Justice, under the provisions of section of the said recited Act; and We do further grant, ordain, and appoint that whensoever it shall happen that the office of Chief Justice or of the Judge to whom the Custody of the said seal be committed shall be vacant, the said High Court shall be and is hereby authorized and empowered to demand, seize, and take the said seal from any person or persons whomsoever, by what ways and means soever the same may have come to his, her, or their possession. Secs. 5-6.

Writs &c, how to issue

5. And We do hereby further grant, ordain, and appoint that all writs, summonses, precepts, rules, orders, and other mandatory process to be used, issued, or awarded by the said High Court of Judicature for the North-Western Provinces, shall run and be in the name and style of Us, or of Our heirs and successors, and shall be sealed with the seal of the said High Court.

Appointments.

6. And We do hereby authorize and empower the Chief Justice of the said High Court of Judicature for the North-Western Provinces from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint so many and such clerks and other ministerial officers as shall be found necessary for the administration of justice, and the due execution of all the powers and authorities

Sec. 7. granted and committed to the said High Court by these Our Letters Patent. And We do hereby ordain that every such appointment shall be forthwith submitted to the approval of the Lieutenant-Governor of the North-Western Provinces, and shall be either confirmed or disallowed by the said Lieutenant-Governor. And it is Our further will and pleasure, and We do hereby, for Us, Our heirs and successors, give, grant, direct, and appoint that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice shall, from time to time, appoint for each office and place respectively, and as the Lieutenant-Governor of the North-Western Provinces, subject to the control of the Governor-General in Council, shall approve of: Provided always, and it is Our will and pleasure, that all and every the officers and clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court, so long as they shall hold their respective offices; but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules prescribed by the Governor-General in Council, and to absent himself from the said limits during the term of such leave, in accordance with the said rules.

As to Admission of Advocates, Vakils, Attorneys.

7. And We do hereby authorize and empower the said High Court of Judicature for the North-Western Provinces to approve, admit, and enrol such and so many Advocates, Vakils, and Attorneys, as to the said High Court shall seem meet; and such Advocates, Vakils, and Attorneys, shall be and are hereby authorized to appear for the suitors of the

aid High Court, and to plead or to act, or to plead and act, for the said suitors, according as the said High Court may, by its rules and directions, determine, and subject to such rules and directions.

8. And We do hereby ordain that the said High Court of Judicature for the North-Western Provinces shall have power to make rules for the qualification and admission of proper persons to be Advocates, Vakils, and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakils, or Attorneys-at-Law; and no person whatever, but such Advocates, Vakils, or Attorneys, shall be allowed to act or to plead for, or on behalf of, any suitors in the said High Court, except that any suitor shall be allowed to appear, plead, or act on his own behalf, or on behalf of a co-suitor.

Civil Jurisdiction.

Extraordinary original jurisdiction

9. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falli
Court, subject to
High Court shall
the agreement of the parties to that effect, or for purposes of justice, the reason for so doing being recorded on the proceedings of the said High Court.

Appeal may lie from Courts of original jurisdiction to High Court in its appellate jurisdiction

10. And We do further ordain that an appeal shall lie to the said High Court of Judicature for the North-Western Provinces from the judgment (not being a sentence or order passed or made in any

Secs. 11-12.

criminal trial) of one Judge of the said High Court or of one Judge of any Division Court, pursuant to section 13 of the said recited Act, and that an appeal shall also lie to the said High Court from the judgment (not being a sentence or order as aforesaid) of two or more Judges of the said High Court, or of such Division Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being; but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court in such case shall be to Us, Our heirs or successors, in Our or their Privy Council, as hereinafter provided.

As to appeal from Court in the Provinces

11. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall be a Court of appeal from the Civil Courts of the North-Western Provinces, and from all other Courts to which there is now appeal to the Sadr Diwaní Adalat, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

As to infants and lunatics.

12. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have the like power and authority with respect [illegible]

[illegible]

Presidency of Fort William by the High Court of Judicature at Fort William in Bengal, but subject to the provisions of any laws or regulations now in force.

Law to be administered.

By High Court in the exercise of extraordinary original civil jurisdiction.

13. And We do further ordain that, with respect to the law or equity to be applied to each case coming before the said High Court of Ju-

Provinces in

nal civil jurisdiction, such law or equity shall, until otherwise provided, be the law or equity which would have been applied to such case by any local Court having jurisdiction therein.

By High Court in the exercise of appellate jurisdiction.

14. And We do further ordain, that with respect to the law or equity and rule of good conscience to be applied by the said High Court of Judicature for the North-Western Provinces, to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which the Court in which the proceedings in such case were originally instituted ought to have applied to such case.

Criminal Jurisdiction.

Ordinary original jurisdiction.

15. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have ordinary original criminal jurisdiction in respect of all such persons within the said Provinces as the High Court of Judicature at Fort William in Bengal shall have criminal jurisdiction over at the date of the publication of these presents; and the criminal jurisdiction of the said last-mentioned High Court over such persons shall cease at such date: Provided nevertheless, that criminal proceed-

Secs. 11-12.

criminal trial) of one Judge of the said High Court or of one Judge of any Division Court, pursuant to section 13 of the said recited Act, and that an appeal shall also lie to the said High Court from the judgment (not being a sentence or order as aforesaid) of two or more Judges of the said High Court, or of such Division Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being; but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court in such case shall be to Us, Our heirs or successors, in Our or their Privy Council, as hereinafter provided.

As to appeal from Court in the Provinces.

11. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall be a Court of appeal from the Civil Courts of the North-Western Provinces, and from all other Courts to which there is now appeal to the Sadr Diwani Adalat, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

As to infants and lunatics.

12. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have the like power and authority with respect to the [illegible] tic[illegible] wh[illegible] Pr[illegible] Judicature at Fort William in Bengal, but subject to the provisions of any laws or regulations now in force.

Secs. 20-22

as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the said High Court shall seem right.

As to appeals from Courts in the Provinces.

20. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall be a Court of appeal from the Criminal Courts of the said provinces and from all other Courts from which there is now an appeal to the Court of Sadr Nizamat Adalat for the said Provinces, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said Court of Sadr Adalat by virtue of any law now in force

As to hearing of referred cases, &c.

21 And We do further ordain that the said High Court shall be a Court of reference and revision from the Criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges or by any other officers now authorized to refer cases to the Court of Sadr Nizamat Adalat of the North-Western Provinces, and to revise all such cases tried by any officer or Court possessing criminal jurisdiction as are now subject to reference to, or revision by, the said Court of Sadr Nizamat Adalat.

As to the transfer of a case from one Court to another

22. And We do further ordain that the said High Court shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or

Secs. 16-19.

ings which shall, at such date, have commenced in the said last-mentioned High Court, shall continue as if these presents had not been issued

Jurisdiction as to persons.

16. And We do further ordain, that the said High Court of Judicature for the North-Western Provinces, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

Extraordinary original jurisdiction

17. And We do further ordain that the said High Court of Judicature for the North-Western Provinces shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court now subject to the superintendence of the Sadr Nizamat Adalat, and shall have authority to try at its discretion any such persons brought before it on charges preferred by any Magistrate or other Officer specially empowered by the Government in that behalf

No appeal from Court exercising original jurisdiction

18 And We do further ordain that there shall be no appeal to the said High Court from any sentence or order passed or made in any criminal trial before the Courts of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

As to review of cases on points of law reserved.

19. And We do further ordain that, on such point or points of law being so reserved as aforesaid, the said High Court shall have full power and authority to review the case, or such part of it

before the said High Court, in the exercise of its ordinary original criminal jurisdiction, shall be regulated by the procedure and practice which was in use in the High Court of Judicature for Fort William in Bengal immediately before the publication of these presents, subject to any law which has been or may be made in relation thereto by competent legislative authority for India; and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure, prescribed by an Act passed by the Governor-General in Council, and being Act No XXV of 1861,* or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid. Sec. 30.

* Now Act V of 1898.

As to Appeals to the Privy Council.

Appeals

30. And We do further ordain that any person or persons may appeal to Us, Our heirs and successors, in Our or their Privy Council, in any matter not being of criminal jurisdiction, from any final judgment, decree, or order of the said High Court of Judicature for the North-Western Provinces, made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which an appeal shall not lie to the said High Court under the provisions contained in the 10th clause of these presents; Provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment decree, or order shall involve, directly or indirectly, some claim, demand, or question to or respecting property amounting to or of the value of not

Sect. 34, 35. rule of law, or other order or rule of the said High Court, should or might have been executed.

Power of Government to call for Record, &c.

34. And it is Our further will and pleasure that the said High Court of Judicature for the North-Western Provinces shall comply with such requisitions as may be made by the Government for records, returns, and statements in such form and manner as such Government may deem proper.

Powers of Indian Legislature preserved.

35. And We do further ordain and declare that all the provisions of these Our Letters Patent are subject to the legislative powers of the Governor General in Council, exercised at meetings for the purpose of making laws and regulations, and also of the Governor General in cases of emergency under the provisions of an Act of the twenty-fourth and twenty-fifth years of Our reign, chapter sixty-seven, and may be in all respects amended and altered thereby.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, the seventeenth day of March in the twenty-ninth year of Our reign.

By warrant under the Queen's Sign Manual.

(Signed) C. ROMILLY.

Printed at the National Press, Allahabad.

ACT XII. OF 1887.

Bengal, N.-W. P., and Assam Civil Courts Act.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH, 1887.

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887;

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Court, and

(3) It shall come into force on the first day of July 1887.

2. (1) [*Repealed by Act XII. of 1891.*]

(2) All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred, and lists published, under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been

Act XII. of 1887.

so constituted, made, conferred and published, sh be deemed to have been respectively constitut made, conferred and published under this Act ; an

(3) Any enactment or document referring to t Bengal Civil Courts Act, 1871, or to any enactm thereby repealed, shall be construed to refer to t Act, or to the corresponding portion thereof.

CHAPTER II

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the foll ing classes of Civil Courts un this Act, namely :—

(1) the Court of the District Judge ;

(2) the Court of the Additional Judge ;

(3) the Court of the Subordinate Judge ;

(4) the Court of the Munsif.

Number of District Judges and Subordinate Judges.

4. The Local Government may, with the pr ous sanction of the Govern General in Council, increase reduce the number of Dist Judges and Subordinate Judges now fixed.

Number of Munsifs.

5. The Local Government may, subject to control of the Governor-Gen *in Council*, alter the num of Munsifs now fixed :

Provided that, except in the case of Munsifs wh monthly salary does not exceed two hundred fifty rupees, an increase of the number of Mun now fixed shall not be made by the Local Gove ment without the previous sanction of the Gover General in Council.

Act XII of 1887

Vacancies among District or Subordinate Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy, or appoint the additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

Vacancies among Munsifs.

7. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly

(2) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor-General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

Act XII. of 1887.

Additional Judges.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the [illegible] recommendation of [illegible]

requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which [illegible] them, and, in the [illegible] shall exercise the [illegible]

Administrative control of Courts

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts, under this Act within the local limits of his jurisdiction.

10. (1) In the event of the death, resignation or removal of the District Judge, or [illegible]

[illegible] the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge, or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, [illegible] rules which [illegible] half, exercise [illegible] e.

Act XI of 1887

Transfer of proceedings on vacation of office of Subordinate Judge

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif

12 (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7, or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy

Act XII. of 1887.

and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Courts.

13. (1) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges, or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges, or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond that local area, if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

Place of sitting of Courts.

14. (1) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

Act XII. of 1887.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

15. (1) Subject to such orders as may be made by the Governor-General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

Vacations of Courts

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government

Seals of Courts.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred.

Continuance of proceedings of Courts ceasing to have jurisdiction.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure, or in any other enactment for the time being in force.

CHAPTER III.

Ordinary Jurisdiction

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge ex-

Extent of original jurisdiction of District or Subordinate Judge.

Act XII. of 1887. tends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts.

Extent of jurisdiction of Munsif

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

Appeals from District and Additional Judges

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to the Court.

Appeals from Subordinate Judges and Munsifs

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit, in which or in any proceeding arising out of which the decree or order was made, did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree r order of a Munsif shall lie to the District Judge. Act of 18

(3) Where the function of receiving any appeals hich lie to the District Judge under sub-section (1) r sub-section (2) has been assigned to an Additional udge, the appeals may be preferred to the Addition-l Judge.

(4) The High Court may, with the previous anction of the Local Government, direct, by notifica-ion in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be pre-erred to the Court of such Subordinate Judge as nay be mentioned in the notification, and the appeal shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to transfer to Subordinate Judges appeals from Munsifs.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself, or transfer it to a Court under his administrative control competent to dispose of it

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Act XII of 1887.

Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings

23 (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

(a) proceedings under Bengal Regulation V, 1799 (*to limit the Interference of the Zillah and City Courts of Dewani Adalat in the Execution of Wills and Administration to the Estates of Persons dying intestate*) ;

(b) [*Repealed by the Guardians and Wards Act* (*VIII of* 1890)]

(c) [*Repealed by the Succession Certificate Act* (*VII of* 1889)]

(d) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates , and

(e) references by Collectors under section 322C of the Code of Civil Procedure.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Act XII. of 1887.

Disposal of proceedings referred to in last foregoing section

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section, shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Subordinate Judges and Munsifs with Small Cause Court jurisdiction

25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge, or one hundred rupees in the case of a Munsif, as it thinks fit, and may withdraw any jurisdiction so conferred.

CHAPTER V.

MISFEASANCE.

Suspension or removal of Judges by Local Government.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Act XII. of 1887.

Suspension of Subordinate Judge by High Court.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under sub-section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit

Suspension or removal of Munsif by High Court.

28. (1) The High Court may appoint a commission for enquiring into an alleged misconduct of a Munsif.

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII. of 1850 *(for regulating Inquiries into the Behaviour of Public Servants)* shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and

e High Court shall make such order with respect -reto as it thinks fit. Act X of 18

CHAPTER VI.
Ministerial Officers.

Appointment and re-oval of ministerial icers of District urts.

30. District Judges shall appoint the ministerial officers of their Courts, and, subject only to the control of the Local Government, may remove r suspend tho-e officers or fine them in an amount ot exceeding one month's salary.

Appointment and moval of ministerial fficers of other ourts.

31. (1) The ministerial officers of the Civil Court subject to the administrative control of the District Judge shall be appointed—

(a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and.

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in in amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office

Appointment and removal of ministerial officers on joint establishments

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

(a) appointments not likely to last, and not lasting longer than two months, shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among

Act XII. of 1887.

Suspension of Subordinate Judge by High Court.

27. (1) The High Co may, whenever it sees urge necessity for so doing, suspe a Subordinate Judge.

(2) Whenever the High Court suspends a Su ordinate Judge under sub-section (1), it shall for with report to the Local Government the circumst ces of the suspension, and the Local Governm shall make such order with respect thereto as thinks fit

Suspension or removal of Munsif by High Court.

28 (1) The High Court m appoint a commission for enqu ing into an alleged miscond of a Munsif.

(2) On receiving the report of the result of inquiry, the High Court may, if it thinks fit, rem or suspend the Munsif.

(3) The provisions of Act No. XXXVII. of 18 *(for regulating Inquiries into the Behaviour of Pu Servants)* shall apply to inquiries under this secti the powers conferred by that Act on the Governm being exercised by the High Court

(4) The High Court may, before appointing commission, suspend the Munsif pending the re of the inquiry.

(5) The High Court may, without appointin commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge

29. (1) A District Judge may, whenever sees urgent necessity for so doi suspend a Munsif under his ministrative control

(2) Whenever a District Judge suspends a Mun under sub-section (1), he shall forthwith report to High Court the circumstances of the suspension,

(a) any officer in the Chutia Nagpur, Jalpaiguri, or Darjiling District, or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Silhat, or, Act XII of 1887.

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends, and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor-General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or tions 10 to 12 (both inclusive) or sections 27 to 35 th inclusive) applies to any officer so invested, but the other provisions of this Act shall, so far as ose provisions can be made applicable, apply to n as if he were a Judge of the Court with the wers of which he is invested.

(3) Where, in the territories mentioned in clause) of sub-section (1) the same local jurisdiction is signed to two or more officers invested with the wers of a Munsif, the officer invested with the owers of a District Judge may, with the previous uction of the Local Government, delegate his funcons under sub-section (2) of section 13 to an officer vested with the powers of a Subordinate Judge or one of the officers invested with the powers of a Iunsif.

(4) Where the place at which the Court of an fficer invested with powers under sub-section (1) is o be held has not been fixed under section 14, the ourt may be held at any place within the local limits f its jurisdiction.

Act XII. of 1887.

Certain decisions to be according to native law.

37. (1) Where in any suit or other proceeding is necessary for a Civil Court decide any question regardi succession, inheritance, marri or caste, or any religious usage or institution, Muhammadan law in cases where the parties Muhammadans, and the Hindu law in cases wh the parties are Hindus, shall form the rule of de sion, except in so far as such law has, by legislat enactment, been altered or abolished

(2) In cases not provided for by sub-section (or by any other law for the time being in force, Court shall act according to justice, equity and g conscience.

Judges not to try suits in which they are interested

38. (1) The presiding officer of a Civil Court sl not try any suit or other proce ing to which he is a party o which he is personally interest

(2) The presiding officer of an Appellate C Court under this Act shall not try an appeal agai a decree or order passed by himself in another ca city.

(3) When any such suit, proceeding, or app as is referred to in sub-section (1) or sub-section comes before any such officer, the officer shall fo with transmit the record of the case to the Court which he is immediately subordinate, with a rep of the circumstances attending the reference.

(4) The superior Court shall thereupon disp of the case under section 25 of the Code of Civil P cedure.

(5) Nothing in this section shall be deemed affect the extraordinary original civil jurisdictio the High Court.

Act XII. of 1887.

39. For the purposes of the last foregoing section the presiding officer of a Court

Subordination of Courts to District Court...

trol of the
mediately
Judge, and, for the purposes of the Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court the District Judge.

Application of Act to Provincial Courts of Small Causes.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

Printed at the National Press, Allahabad.

ACT IX. OF 1887.

Provincial Small Cause Courts Act.

RECEIVED THE G.-G.'S ASSENT ON 24TH FEBRUARY 1887.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits, for the time being, of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay:. It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887;

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July 1887.

2. (1) [*Repeal of enactments.*] *Repealed by Act XII. of 1891.*

Construction.

(2) All Courts constituted, limits fixed, places appointed, appointments, declarations, and rules made, jurisdic-

Act IX. of 1887.

... powers conferred, forms prescribed, direc- ... [illegible] ...ublished, under Act ... [illegible] ... *lidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given, and published under this Act.

(3) Any enactment or document referring to Act No. XI. of 1865, or to any enactment thereby repealed, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Savings.

3. Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act ; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchâyats under the provisions of the Madras Code, or of Village Munsifs under the Deccan Agriculturists' Relief Act, 1879 ; or

(*c*) any local law or any special law other than the Code of Civil Procedure.

Definition

4. In this Act, unless there is something repugnant in the subject or context "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment of Courts of Small Causes

5. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits, for the time being, of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

Judge.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes, or of two or more such Courts, as the Local Government directs.

Appointment of times of sitting in certain circumstances

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

Additional Judge.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by

Act IX. of 1887. order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such [illegible] Courts [illegible] discharge [illegible] powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

Suspension and removal of Judges.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Goverment.

Power to require two Judges to sit as a bench.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional [illegible] Causes, [illegible] classes [illegible] Court of

Decision in case heard by a bench.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together [illegible] differ as to a [illegible] force of law, [illegible] struction of [illegible] draw up and refer, for the decision of the High Court, a statement of the facts of the case, and of the point on which they differ in *opinion*, and the provisions of

Chapter XLVI. of the Code of Civil Procedure shall apply to the reference. Act IX. of 1887.

(2) If they differ on any matter other than a matter specified in sub-section 1, the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section 2, a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct

(5) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial officers

13. Subject to any enactment for the time being in force, and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment, and transfer of ministerial officers of a Civil Court of the lowest

Act IX. of 1887.

grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment, and transfer of ministerial officers of the Court of Small Causes other than the Registrar (if any) of that Court.

Duties of ministerial officers

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing, on the ministerial officers of a Court of Small Causes, such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

Cognizance of suits by Courts of Small Causes.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule, and to the provisions of any enactment for the time being in force, all suits of a civil nature, of

which the value does not exceed five hundred rupees, shall be cognizable by a Court of Small Causes. Act IX of 1887.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature, of which the value does not exceed one thousand rupees, shall be cognizable by a Court of Small Causes mentioned in the order.

Exclusive jurisdiction of Courts of Small Causes.

16 Save as expressly provided by this Act, or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be trie[illegible] tion within the l[illegible] Court of Small [illegible]

CHAPTER IV.

PRACTICE AND PROCEDURE.

Application of the Code of Civil Procedure

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far [illegible] the [illegible] licable, be all [illegible] Causes in [illegible] oceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte*, or for a review of judgment, shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct

Act IX. of 1887.

(2) Where a person has become liable as surety under the proviso to sub-section 1, the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

Trial of suits by Registrar.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections 3 and 4, shall be tried by him, and decrees passed therein shall be executed by him in like manner in all respects as the Judge might try the suits, and execute the decrees respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge, if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission, return, and rejection of plaints by Registrar

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion, or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him.

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted or return or rejected the plaint, the Judge shall dismiss the application, unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of de[illegible] by Regist[illegible] fession.

Act I[illegible] of 1887

20. (1) If before the date appointed for the hear-

and ad[illegible]
if the J[illegible]
not bee[illegible]
also abs[illegible] against the defendant, upon the ad-
mission, a decree, which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section 1, the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds, and in the same manner, as if the decree had been passed by himself.

Execution of decrees by Registrar.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge, or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section 1, or the Additional Judge, in the case of any such decree or order which has been made by himself, and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fif-

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teen days from the date of the order of the Registrar, or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section 2 shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

Adjournment of cases by chief ministerial officer.

22. When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed, or, having been appointed. is also absent, the Registrar or other chief ministerial officer of the Court may exercise, from time to time, the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

Return of plaints in suits involving questions of title

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section 1, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure, and make such order with respect to costs as it deems just: and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by

reason of a cause of a nature like to that of defect of jurisdiction.

Appeals from certain orders of Courts of Small Causes.

24. Where an order specified in section 588, clause 29, of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case, and pass such order with respect thereto as it thinks fit.

26. [*Repealed by Act X. of* 1888, *s.* 4.]

Finality of decrees and orders.

27. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the High Court, and shall—

(a) keep such registers, books, and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government, for records, returns, and statements, in such

Act IX. of 1887.

form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

Saving of power to appoint Judge of Court of Small Causes to other office.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person, who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge of any other Civil Court, or to be a Magistrate of any class, or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes

32. (1) So much of Chapters III. and IV. as relates to— Act IX. of 1887.

(a) the nature of the suits cognizable by Courts of Small Causes,

(b) the exclusion of the jurisdiction of other Courts in those suits,

(c) the practice and procedure of Courts of Small Causes,

(d) appeal from certain orders of those Courts and revision of cases decided by them, and

(e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested, by or under any enactment for the time being in force, with the jurisdiction of a Court of Small Causes, so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section 1, with respect to Courts invested with the jurisdiction of a Court of Small Causes, applies to suits instituted, or proceedings commenced, in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.

33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall,

Act IX. of 1887.

form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes

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Saving of power to appoint Judge of Court of Small Causes to other office

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person, who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge of any other Civil Court, or to be a Magistrate of any class, or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes

32. (1) So much of Chapters III. and IV. as relates to— Act IX. of 1887.

(a) the nature of the suits cognizable by Courts of Small Causes,

(b) the exclusion of the jurisdiction of other Courts in those suits,

(c) the practice and procedure of Courts of Small Causes,

(d) appeal from certain orders of those Courts and revision of cases decided by them, and

(e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested, by or under any enactment for the time being in force, with the jurisdiction of a Court of Small Causes, so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section 1, with respect to Courts invested with the jurisdiction of a Court of Small Causes, applies to suits instituted, or proceedings commenced, in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.

33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall,

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form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees [illegible] by the [illegible] Small [illegible]

Seal.

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Saving of power to appoint Judge of Court of Small Causes to other office.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person, who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge of any other Civil Court, or to be a Magistrate of any class, or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

(14) a suit to recover, from a person to whom compensation has been paid under the Land Acquisition Act, 1894, the whole or any part of the compensation ; Act IX of 1887

(15) a suit for the specific performance or rescission of a contract ;

(16) a suit for the rectification or cancellation of an instrument ,

(17) a suit to obtain an injunction ;

(18) a suit relating to a trust, including a suit to make good, out of the general estate of a deceased trustee, the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce, against the estate of a deceased trustee, a claim for contribution ,

(19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure .

(20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure

(21) a suit to set aside an attachment by a Court or a revenue authority, or a sale, mortgage, lease, or other transfer by a Court or a revenue-authority, or by a guardian ,

(22) a suit for property which the plaintiff has conveyed while insane ,

(23) a suit to alter or set aside a decision, decree, or order of a Court, or of a person acting in a judicial capacity ,

(24) a suit to contest an award

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ,

(26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure

(27) a suit under the Indian Succession Act 1865 section 320 or section 321 or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy, or distributed assets

Act IX. of 1887. by order of the Governor-General in Council or a Local Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court, or of a judicial officer acting in the execution of his office;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immoveable property, or for the recovery of an interest in such property;

(5) suit for the partition of immoveable property;

(6) a suit by a mortgagee of immoveable property for [illegible] he sale of the pro- [illegible] property for the [illegible]

(7) a suit for the assessment, enhancement, abatement, or apportionment of the rent of immoveable property;

(8) a suit for the recovery of rent, other than house rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto,

(9) a suit concerning the liability of land to be assessed to land-revenue,

(10) a suit to restrain waste,

(11) a suit for the determination or enforcement of any other right to, or interest in, immoveable property;

(12) a suit for the possession of an hereditary office, or of an interest in such an office, including a suit to establish an exclusive or periodically-recurring right to discharge the functions of an office;

(13) a suit to enforce payment of the allowance or fees respectively called *malikana* and *hak* or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property, or in an hereditary office, or in a shrine or other religious institution;

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(i) for obstruction of an easement or diversion of a water-course ;

(j) for illegal, improper, or excessive distress or attachment ;

(k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV. of that Code ; or

(l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Mahomedan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower ,

(37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce ;

(38) a suit relating to maintenance ,

(39) a suit for arrears of land-revenue, village-expenses, or other sums payable to the representative of a village-community, or to his heir or other successor in title ,

(40) a suit for profits payable by the representative of a village-community, or by his heir or other successor in title, after payment of land revenue, village expenses, and other sums ,

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family ,

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property ,

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land-revenue ,

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force,

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(28) a suit for a legacy, or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate ;

(29) a suit—

(a) for a dissolution of partnership, or for the winding-up of the business of a partnership after its dissolution ;

(b) for an account of partnership-transactions ; or

(c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ;

(30) a suit for an account of property, and *for its due* administration under decree ;

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ;

(32) a suit for a general average loss or for salvage ;

(33) a suit for compensation in respect of collision between ships ;

(34) a suit on a policy of insurance, or for the recovery of any premium paid under any such policy ;

(35) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong ;

(b) for wrongful arrest, restraint, or confinement ;

(c) for malicious prosecution ;

(d) for libel ;

(e) for slander ;

(f) for adultery or seduction ;

(g) for breach of contract of betrothal or promise of marriage ;

(h) for inducing a person to break a contract made with the plaintiff ;

NEW

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ACT No. V OF 1908.

THE CODE OF CIVIL PROCEDURE, 1908.

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THE CODE OF CIVIL PROCEDURE, 1908.

(PRELIMINARY.)

An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature: It is hereby enacted as follows:—

PRELIMINARY.

Short title, commencement and extent.

1. (*1*) This Act may be cited as the Code of Civil Precedure, 1908.

(*2*) It shall come into force on the first day of January, 1909.

(*3*) This section and sections 155 to 158 extend to the whole of British India: the rest of the Code extends to the whole of British India, except tho Scheduled Districts.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Code" includes rules:

(*2*) "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144 but shall not include—

(*a*) any adjudication from which an appeal lies as an appeal from an order, or

(*b*) any order of dismissal for default.

Explanation.—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly, preliminary and partly final :

(3) "decree-holder" means any person in whose favour a decree has been passed or an order capable of execution has been made :

(4) "district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a "District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court :

(5) "foreign Court" means a Court situate beyond the limits of British India which has no authority in British India and is not established or continued by the Governor-General in Council ;

(6) "foreign judgment" means the judgment of a foreign Court :

(7) "Government Pleader" includes any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader and also any pleader acting under the directions of the Government Pleader :

(8) "Judge" means the presiding officer of a Civil Court :

(9) "judgment" means the statement given by the Judge of the grounds of a decree or order :

(10) "Judgment-debtor" means any person against whom a decree has been passed or an order capable of execution has been made :

(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the state of the deceased and where a party sues or is sued in a representative

character the person on whom the estate devolves on the death of the party so suing or sued :

(12) "mesne profits" of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interst on such profits, but shall not include profits due to improvements made by the person in wrongful possession :

(13) "moveable property" includes growing crops :

(14) "order" means the formal expression of any decision of a Civil Court which is not a decree :

(15) "pleader" means any person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court :

(16) "prescribed" means prescribed by rules :

(17) "public officer" means a person falling under any of the following descriptions, namely :—

(*a*) every Judge ;

(*b*) every member of the Indian Civil Service ;

(*c*) every commissioned or gazetted officer in the military or naval forces of His Majesty, including His Majesty's Indian Marine Service while serving under the Government ;

(*d*) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties ;

(*e*) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interest of the Government ; and

(h) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty :

(18) "rules" means rules and forms contained in the First Schedule or made under section 122 or section 125 :

(19) "share in a corporation" shall be deemed to include stock, debenture stock, debentures or bonds : and

(20) "signed," save in the case of a judgment or decree, includes stamped.

Subordination of Courts

3. For the purposes of this Code, the District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court.

Savings

4. (1) In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force.

(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.

Application of the Code to Revenue Courts.

5. (1) Where any Revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare that any portions of those provisions which are not expressly made applicable [illegible] shall only [illegible] Govern- [illegible]

(2) "Revenue Court" in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

Pecuniary jurisdiction.

6. Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

Provincial Small Cause Courts.

7. The following provisions shall not extend to Courts constituted under the Provincial Small Causes Courts Act, 1887. (IX of 1887) or to Courts exercising the jurisdiction of a Court of Small Causes under that Act, that is to say,—

(*a*) so much of the body of the Code as relates to—

(*i*) suits excepted from the cognizance of a Court of Small Causes;

(*ii*) the execution of decrees in such suits;

(*iii*) the execution of decrees against immoveable property; and

(*b*) the following sections, that is to say,—

section 9,

sections 91 and 92,

sections 94 and 95 so far as they relate to injunctions and interlocutory orders, and sections 96 to 112 and 115.

Presidency Small Cause Courts.

8. Save as provided in sections 24, 38 to 41, 75, clauses (*a*), (*b*) and (*c*), 76, 77 and 155 to 158, and by the Presidency Small Cause Courts Act, 1882, (XV. of 1882) the provisions in the body of this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay

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PART I.

SUITS IN GENERAL.

JURISDICTION OF THE COURTS AND RES JUDICATA.

Courts to try all civil suits unless barred.

9. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation—A suit in which the right to property or to an office is contested is a suit of a civil [illegible] ot-

[illegible] the

[illegible]

Stay of suit.

10. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or be-

tween parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in British India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of British India established or continued by the Governor-General in Council and having like jurisdiction, or before His Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

✓ 11. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Res judicata

Explanation I.—The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI.—Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Bar to further suit.

12. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.

When foreign judgment not conclusive.

13. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—

(*a*) where it has not been pronounced by a Court of competent jurisdiction ;

(*b*) where it has not been given on the merits of the case ;

(*c*) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of British India in case in which such law is applicable ;

(*d*) where the proceedings in which the judgment was obtained are opposed to natural justice.

(*e*) where it has been obtained by fraud ;

(*f*) where it sustains a claim founded on a breach of any law in force in British India.

Presumption as to foreign judgments.

14. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record ; but such presumption may be displaced by proving want of jurisdiction.

Place of suing.

Court in which suits to be instituted

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject situate.

16. Subject to the pecuniary or other [illegible] any law, suits—

(*a*) [illegible] property with or without rent or profits,

(*b*) for the partition of immoveable property,

(*c*) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immoveable property,

(*d*) for the determination of any other right to or interest in immoveable property,

(*e*) for compensation for wrong to immoveable property,

(*f*) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief *sought* can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section "property" means property *situate* in British India.

Suits for immoveable property situate within jurisdiction of different Courts.

17. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of *whose jurisdiction* any portion of the property is situate:

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

Place of institution of suit where local limits of jurisdiction of Courts are uncertain

18. (*1*) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction :

Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(*2*) Where a statement has not been recorded under sub-section (*1*), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection unless in its opinion there was, at the time of the institution of the [illegible] uncertainty as to the Court [illegible] thereto and there has been [illegible]

Suits for compensation for wrongs to person or moveables.

19. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations.

(*a*) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

Other suits to be instituted where defendants reside or cause of action arises.

20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain : or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution ; or

(c) the cause of action, wholly or in part, arises.

Explanation I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II.—A corporation shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly

in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(*b*) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides or at Delhi, where C resides ; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

Objection to jurisdictions

21. No. objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

Power to transfer suits which may be instituted in more than one Court

22. Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made, after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed.

To what Court application lies

23. (*1*) Where the several Courts having jurisdiction are subordinate to the same Appellate Court, an application under section 22 shall be made to the Appellate Court.

(*2*) Where such Courts are subordinate to different Appellate Courts but to the same High Court, the application shall be made to the said High Court.

(3) Where such Courts are subordinate to different High Courts, the application shall be made to the High Court within the local limits of whose jurisdiction the Court in which the suit is brought is situate.

24. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage—

General power of transfer and withdrawal

(a) transf[illegible] appeal or other proceeding pend- [illegible] any Court [illegible] or dispose of the same, or

(b) withdraw any suit, appeal or other proceeding in any Court subordinate to it, and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section, Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

25. (1) Where any party to a suit, appeal or other proceeding pending in a High Court presided over by a single Judge objects to its being heard by him and the Judge is satisfied that there are reasonable grounds for the objection, he shall make a report to the Governor-General in Council, who may, by notification in the Gazette of India, transfer such suit, appeal or proceeding to any other High Court.

Power of Governor-General in Council to transfer suit.

(2) The law applicable to any suit, appeal or proceeding so transferred shall be the law which the Court in which the suit, appeal or proceeding was originally instituted ought to have applied to such case.

INSTITUTION OF SUITS.

26. Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

Institution of suits.

SUMMONS AND DISCOVERY.

27. Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

Summons to defendant.

28. (1) A summons may be sent for service in another province to such Court and in such manner as may be prescribed by rules in force in that province.

Service of summons where defendant resides in another province.

(2) The Court to which such summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue together with the record (if any) of its proceedings with regard thereto.

29. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts :

Service of foreign summonses.

Provided that the Courts issuing such summonses have been established or continued by the authority of the Governor-General in Council, or that the Governor-General in Council has, by notification in the Gazette of India, declared the provisions of this section to apply to such Courts.

Power to order discovery and the like.

30. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,—

(a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;

(b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;

(c) order any fact to be proved by affidavit.

Summons to witness.

31. The provision in sections 27, 28 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

Penalty for default.

32. The Court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may—

(a) issue a warrant for his arrest;

(b) attach and sell his property;

(c) impose a fine upon him not exceeding five hundred rupees;

(d) order him to furnish security for his appearance and in default commit him to the civil prison.

JUDGMENT AND DECREE

Judgment and decree

33. The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

INTEREST.

Interest.

34. (1) Where and in so far as a decree is for the payment of money, the Cour tmay, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

COSTS.

Costs.

35. (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers.

(2) Where the Court directs that any cost shall not follow the event, the Court shall state its reasons in writing.

(3) The Court may give interest on costs at any rate not exceeding six per cent. per annum, and such interest shall be added to the costs and shall be recoverable as such.

PART II.
EXECUTION.

General.

36. The provisions of this Code relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

Application to orders.

37. The expression "Court which passed a decree" or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include,—

Definition of Court which passed a decree.

- (a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and
- (b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

Courts by which decrees may be executed.

38 A decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

Court by which decree may be executed

39. (1) The Court which passed [illegible] on the [illegible] send it

Transfer of decree.

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on

business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

Transfer of decree to Court in another province.

40. Where a decree is sent for execution in another province, it shall be sent to such Court and executed in such manner as may be prescribed by rules in force in that province.

Result of execution-proceedings to be certified.

41. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

Powers of Court in executing transferred decree.

42. The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in executing such decree shall be subject to

the same rules in respect of appeal as if the decree had been passed by itself.

Execution of decrees passed by British Courts in places to which this Part does not extend or in foreign territory.

43. Any decree passed by a Civil Court established in any part of British India to which the provisions relating to execution do not extend, or by any Court established or continued by the authority of the Governor-General in Council in the territories of any foreign Prince or State, may, if it cannot be executed within the jurisdiction of the Court by which it was passed, be executed in manner herein provided within the jurisdiction of any Court in British India.

Execution of decrees passed by Courts of Native States.

44. The Governor-General in Council may, by notification in the Gazette of India, declare that the decrees of any Civil or Revenue Courts situate in the territories of any native Prince or State in alliance with His Majesty and not established or continued by the authority of the Governor-General in Council, or any class of such decrees, may be executed in British India as if they had been passed by the Courts of British India.

Execution of decrees in foreign territory.

45. So much of the foregoing sections of this Part as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor-General in Council in the territories of any foreign Prince or State to which the Governor-General in Council has, by notification in the Gazette of India, declared this section to apply.

Precepts.

46. (*1*) Upon the application of the decree-holder the Court which passed the decree may, whenever it thinks fit, issue a precept to any other Court which would be competent to execute such *decree* to attach any property belonging to the judgment-debtor and specified in the precept.

(2) The Court to which a precept is sent shall proceed to attach the property in the manner prescribed in regard to the attachment of property in execution of a decree:

Provided that no attachment under a precept shall continue for more than two months unless the period of attachment is extended by an order of the Court which passed the decree or unless before the determination of such attachment the decree has been transferred to the Court by which the attachment has been made and the decree-holder has applied for an order for the sale of such property.

QUESTIONS TO BE DETERMINED BY COURT EXECUTING DECREE.

Questions to be de [illegible]

47. (*1*) All questions arising between the parties to the suit in which the decree was passed, or their representatives and relating to [illegible] the decree and not by a separate suit.

(2) The Court may, subject to any objection as to limitation or ju [illegible] this section as a sui [illegible] y, if necessary, order [illegible]

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

Explanation.—For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed, are parties to the suit.

LIMIT OF TIME FOR EXECUTION.

Execution barred in certain cases.

48. (*1*) Where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh

application presented after the expiration of twelve years from—

(a) the date of the decree sought to be executed, or,

(b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed—

(a) to [illegible] the execution [illegible] presented af[illegible] of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application; or

(b) to limit or otherwise affect the operation of article 180 of the second schedule to the Indian Limitation Act, 1877.

TRANSFEREES AND LEGAL REPRESENTATIVES.

Transferee.

49. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Legal representative.

50. (1) Where the judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the

decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit.

PROCEDURE IN EXECUTION.

Powers of Court to enforce execution.

51. Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree—

(a) by delivery of any property specifically decreed;
(b) by attachment and sale or by sale without attachment of any property;
(c) by arrest and detention in prison;
(d) by appointing a receiver; or
(e) in such other manner as the nature of the relief granted may require.

Enforcement of decree against legal representative.

52. (1) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(2) Where no such property remains in the possession [illegible] satisfy the Court [illegible] of the deceased [illegible]ssion, the decree may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.

Liability of ancestral property.

53. For the purposes of section 50 and section 52, property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debt of a deceased ancestor, in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to

the hands of the son or other descendant as his legal representative.

54. Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government, or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares, of such estates.

Partition of estate or separation of share.

ARREST AND DETENTION.

55. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the Local Government may appoint for the detention of persons ordered by the Courts of such district to be detained:

Arrest and detention.

Provided, firstly, that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, thirdly, that, if the room is in the actual occupancy of a woman who is not the judgment-debtor

and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest :

Provided, fourthly, that, where the decree in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(2) The Local Government may, by notification in the local official Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as may be prescribed by the Local Government in this behalf.

(3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.

(4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceeding upon the application or upon the decree in execution of which he was arrested, the Court shall release him from arrest, and, if he fails so to apply and to appear, the Court may either direct the security to be realized or commit him to the civil prison in execution of the decree.

Prohibition of arrest or detention of women in execution of decree for money

56. Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.

Subsistence allowance

57. The Local Government may fix scales, graduated according to rank, race and nationality of monthly allowances payable for the subsistence of judgment-debtors.

Detention and release

58. (1) Every person detained in the civil prison in execution of a decree shall be so detained,—

(a) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and,

(b) in any other case, for a period of six weeks :

Provided that he shall be released from such detention before the expiration of the said period of six months six weeks, as the case may be,—

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person on whose application he has been so detained, or

(iv) on the omission by the person, on whose application he has been so detained, to pay subsistence-allowance :

Provided, also, that he shall not be released from such etention under clause (ii) or clause (iii), without the order f the Court.

(2) A judgment-debtor released from detention under his section shall not merely by reason of his release be ischarged from his debt, but he shall not be liable to be

re-arrested under the decree in execution of which he was detained in the civil prison.

Release on ground of illness.

59. (*1*) At any time after a warrant for the arrest of a judgment-debtor has been issued the Court may cancel it on the ground of his serious illness.

(*2*) Where a judgment-debtor has been arrested, the Court may release him if, in its opinion, he is not in a fit state of health to be detained in a civil prison.

(*3*) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom—

(*a*) by the Local Government, on the ground of the existence of any infectious or contagious disease, or

(*b*) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(*4*) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by section 58.

ATTACHMENT.

Property liable to attachment and sale in execution of decree.

60. (*1*) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, banknotes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares [illegible] hereinafter mentioned, all [illegible] immoveable, belong- [illegible] which, or the profits [illegible] which he may exer- [illegible] same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf ;

Provided that the following particulars shall not be liable to such attachment or sale, namely :—

(a) the necessary wearing-apparel, cooking-vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;

(b) tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section ;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him ;

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government, or payable out of any service family pension fund notified in the Gazette of India by the Governor-General in Council in this behalf, and political pensions ;

(h) allowances (being less than salary) of any public officer or of any servant of a railway company or local authority while absent from duty :

(i) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of—

(i) the whole of the salary, where the salary does not exceed twenty rupees monthly :

(ii) twenty rupees monthly, where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and

(iii) one moiety of the salary in any other case :

(j) the pay and allowance of persons to whom the Indian Articles of War apply :

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897, for the time being, applies in so far as they are declared by the said Act not to be liable to attachment ;

(l) the wages of labourers and domestic servants whether payable in money or in kind ;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(n) a right to future maintenance ;

(o) any allowance declared by any law passed under the Indian Councils Acts, 1861 and 1892, to be exempt from liability to attachment or sale in execution of a decree ; and,

(p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue

Explanation.—The particulars mentioned in clauses (g), (h), (i), (j), (l) and (o) are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed—

(a) to exempt houses and other buildings (with the *materials* and the sites thereof and the lands

immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, buildings, site or land, or

(b) to affect the provisions of the Army Act or of any similar law for the time being in force.

Partial exemption of agricultural produce.

61. The Local Government, with the previous sanction of the Governor-General in Council, may, by general or special order published in the local official Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the Local Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree.

Seizure of property in dwelling-house.

62. (1) N [illegible]

[illegible] ing-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing [illegible] that she [illegible] reasonable [illegible] mable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every

precaution, consistent with these provisions, to prevent its clandestine removal.

Property attached in execution of decrees of several Courts

63. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

Private alienation of property after attachment to be void.

64. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgment-debtor of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.—For the purposes of this section, claims enforceable under an attachment include claims for the rateable distribution of assets.

SALE.

Purchaser's title

65. Where immoveable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff

66. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Power for Local Government to make rules as to sales of land in execution of decrees for payment of money.

67. The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment of money, where such interests are so uncertain or undetermined as, in the opinion of the Local Government, to make it impossible to fix their value.

DELEGATION TO COLLECTOR OF POWER TO EXECUTE DECREES AGAINST IMMOVEABLE PROPERTY.

Power to prescribe rules for transferring to Collector execution of certain decrees.

68. The Local Government may, with the previous sanction of the Governor General in Council, declare, by notification in the local official Gazette, that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decree, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector.

Provisions of Third Schedule to apply.

69. The provisions set forth in the Third Schedule shall apply to all cases in which the execution of a decree has been transferred under the last preceding section.

Rules of procedure.

70. (1) The Local Government may make rules consistent with the aforesaid provisions—

(a) for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court;

(b) conferring upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector;

(c) providing for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

Jurisdiction of Civil Courts barred

(2) A power conferred by rules made under sub-section (1) upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exerciseable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

Collector deemed to be acting judicially.

71. In executing a decree transferred to the Collector under section 68 the Collector and his subordinates shall be deemed to be acting judicially.

Where Court may authorize Collector to stay public sale of land.

72. (1) Where in any local area in which no declaration under section 68 is in force the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or

share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him instead of proceeding to a sale of the land or share.

(2) In every such case the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable.

DISTRIBUTION OF ASSETS.

Proceeds of execution sale to be rateably distributed among decree holders

73. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons :

Provided as follows :—

(a) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale ;

(b) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold ;

(c) where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale ;

secondly, in discharging the amount due under the decree ;

thirdly, in discharging the interest and principal monies due on subsequent incumbrances (if any) ; and,

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have, prior to the sale of the property, applied to the Court which passed the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably *distributed under this section are paid to a person not entitled* to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of the Government.

RESISTANCE TO EXECUTION.

Resistance to execution

74. Where the Court is satisfied that the holder of a decree for the possession of immoveable property or that the purchaser of immoveable property sold in execution of a decree has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put into possession of the property.

PART III.

INCIDENTAL PROCEEDINGS.

COMMISSIONS.

75. Subject to such conditions and limitations as may be prescribed, the Court may issue a commission—

Power of Court to issue commissions.

(a) to examine any person;

(b) to make a local investigation,

(c) to examine or adjust accounts; or

(d) to make a partition.

76. (1) A commission for the examination of any person may be issued to any Court (not being a High Court) situate in a province other than the province in which the Court of issue is situate and having jurisdiction in the place in which the person to be examined resides.

Commission to another Court

(2) Every Court receiving a commission for the examination of any person under sub-section (1) shall examine him or cause him to be examined pursuant thereto, and the commission, when it has been duly executed, shall be returned together with the evidence taken under it to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order.

77. In lieu of issuing a commission the Court may issue a letter of request to examine a witness residing at any place not within British India.

Letter of request

78. The provisions as to the execution and return of commissions for the examination of witnesses shall apply to commissions issued by—

Commissions issued by foreign Courts

(a) Courts situate beyond the limits of British India and established or continued by the authority of His Majesty or of the Governor-General in Council, or
(b) Courts situate in any part of the British Empire other than British India, or
(c) Courts of any foreign country for the time being in alliance with His Majesty.

PART IV.

SUITS IN PARTICULAR CASES.

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS IN THEIR OFFICIAL CAPACITY.

Suits by or against Government

79. (1) Suits by or against the Government shall be instituted by or against the Secretary of State for India in Council.

(2) Nothing in this section shall be deemed to limit or otherwise affect any information exhibited by the Advocate-General in exercise of the power declared by section 111 of the East India Company Act, (33 Geo. 3, c. 155) 1813.

Notice.

80. No suit shall be instituted against the Secretary of State for India in Council, or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the district, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Exemption from arrest and personal appearance.

81. In a suit instituted against a public officer in respect of any act purporting to be done by him in his official capacity—

(a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and,

(b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

Execution of decree

82. (1) Where the decree is against the Secretary of State for India in Council or against a public officer in respect of any such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such report.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

83. (1) Alien enemies residing in British India with the permission of the Governor-General in Council, and alien friends, may sue in the Courts of British India, as if they were subjects of His Majesty.

(2) No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any such Courts.

Explanation.—Every person residing in a foreign country the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in

that behalf under the hand of one of His Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

When foreign States may sue

84. (1) A foreign State may sue in any Court of British India:

Provided that such State has been recognised by His Majesty or by the Governor-General in Council:

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognised by His Majesty or by the Governor-General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

85. (*1*) Persons specially appointed by order of the Government at the request of any Sovereign Prince or Ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such Prince or Chief, ... behalf, shall be ... hom appearances, ... may be made or

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

(3) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

86. (1) Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of the Governor-General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

Suits against Princes, Chiefs, ambassadors and envoys.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the Government that the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor-General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor-General in Council and a Secretary to the Government of India, respectively.

(3) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.

Style of Princes and Chiefs as parties to suits

87. A Sovereign Prince or Ruling Chief may sue, and shall be sued, in the name of his State: Provided that in giving the consent referred to in the foregoing section the Governor-General in Council or the Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.

INTERPLEADER.

Where interpleader-suit may be instituted

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay, or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made, and of obtaining indemnity for himself:

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

Arbitration.

89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply to any arbitration after that date under any agreement or reference made before the commencement of this Code.

SPECIAL CLASS.

90. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

Power to state case for opinion of Court

SUITS RELATING TO PUBLIC MATTERS.

91. (1) In the case of a public nuisance the Advocate-General, or two or more persons having obtained the consent in writing of the Advocate-General, may institute a suit, though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

Public nuisances

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit, [illegible] the principal Civil Court [illegible] other Court empowered [illegible] Government within the local [illegible] whole or any part of the subject-matter of the trust is situate to obtain a decree —

Public charities.

that behalf under the hand of one of His Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

When foreign states may sue

84. (1) A foreign State may sue in any Court of British India :

Provided that such State has been recognised by His Majesty or by the Governor-General in Council :

Provided, also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognised by His Majesty or by the Governor-General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

85. (1) Persons specially appointed by order of the Government at the request of any Sovereign Prince or Ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, or at the request of any person competent, in the opinion of the Government, to act on behalf of such Prince or Chief, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

(3) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

86. (1) Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of the Governor-General in Council, certified by the signature of a Secretary to the Government of India, but not without such consent, be sued in any competent Court.

Suits against Princes, Chiefs, ambassadors and envoys.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the Government that the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor-General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor-General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned, the foregoing sub-sections to the Governor-Genera Council and a Secretary to the Government of I respectively.

(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.

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INTERPLEADER.

Where interpleader-suit may be instituted

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person, who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the [illegible] the person to whom [illegible] ade, and of obtaining [illegible]

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

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89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply to any arbitration after that date under any agreement or reference made before the commencement of this Code.

SPECIAL CLASS.

90. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

Power to state case for opinion of Court

SUITS RELATING TO PUBLIC MATTERS.

91. (1) In the case of a public nuisance the Advocate-General, or two or more persons having obtained the consent in writing of the Advocate-General, may institute a suit, though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

Public nuisances

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the Local Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree —

Public charities.

(a) removing any trustee ;
(b) appointing a new trustee ;
(c) vesting any property in a trustee ;
(d) directing accounts and inquiries ;
(e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust ;
(f) authorizing the whole or any part of the trust-property to be let, sold, mortgaged or exchanged :
(g) settling a scheme ; or
(h) granting such further or other relief as the nature of the case may require.

(2) Save as provided by the Religious Endowments Act, 1863, (XX of 1863) no suit claiming any of the reliefs specified in sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

Exercise of powers of Advocate-General outside Presidency towns.

93. The powers conferred by sections 91 and 92 on the Advocate-General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

PART VI.

SUPPLEMENTAL PROCEEDINGS.

Supplemental proceedings.

94. In order to prevent the ends of justice from bein[g] defeated, the Court may, if it is so pr[e]scribed, —

(a) issue a warrant to arrest the defendant an[d] bring him before the Court to show cause wh[y] he should not give security for his appearanc[e] and if he fails to comply with any order f[or] security commit him to the civil prison ;

(b) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property ;

(c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold ;

(d) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property ;

(e) make such other interlocutory orders as may appear to the Court to be just and convenient.

Compensation for obtaining arrest, attachment or injunction on insufficient grounds.

95. (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction granted under the last preceding section,—

(a) it appears to the Court that such arrest, attachment or injunction was applied for on insufficient grounds, or

(b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable ground for instituting the same,

the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him :

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment or injunction.

PART VII.

APPEALS.

Appeals from Original Decrees.

96. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

Appeal from original decree.

(2) An appeal may lie from an original decree passed *ex parte*.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

97. Where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.

Appeal from final decree where no appeal from preliminary decree

98. (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

Decision where appeal heard by two or more Judges

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed:

Provided that where the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, they may state the point of law upon which they differ, and the appeal shall then be heard upon that point only by one or more of the other Judges, and such point shall be decided

according to the opinion of the majority (if any) of the Judges who have heard the appeal, including those who first heard it.

99. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdicton of the Court.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction

APPEALS FROM APPELLATE DECREES.

100 (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to a High Court, on any of the following grounds, namely:—

Second appeal

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

(2) An appeal may lie under this section from an appellate decree passed *ex parte*.

101. No second appeal shall lie except on the grounds mentioned in section 100.

Second appeal on no other grounds.

102. No second appeal shall lie in any suit of the nature cognizable by Courts of Small Causes, when the amount or value [of] the subject-matter of the original suit does not exceed [five] hundred rupees.

No second appeal in certain suits.

103. In any second appeal, the High Court may, if the evidence on the record is sufficient, determine any issue of fact necessary for the disposal of the appeal but not determined by the lower appellate Court.

Power of High Court to determine issues of fact

APPEALS FROM ORDER.

104. (1) An appeal shall lie from the following orders, and, save as otherwise expressly provided in the body of this Code or by any law for the time being in force from no other orders :—

Orders from which appeal lies.

(a) an order superseding an arbitration where the award has not been completed within the period allowed by the Court ;

(b) an order on an award stated in the form of a special case ;

(c) an order modifying or correcting an award ;

(d) an order filing or refusing to file an agreement to refer to arbitration ;

(e) an order staying or refusing to stay a suit where there is an agreement to refer to arbitration ;

(f) an order filing or refusing to file an award in an arbitration without the intervention of the Court

(g) an order under section 95 ;

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree ;

(i) any order made under rules from which an appeal is expressly allowed by rules

(2) No appeal shall lie from any order passed in appeal under this section.

105. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction ; but, where a decree is appealed

Other orders.

from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand made after the commencement of this Code from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

What Courts to hear appeals.

106. Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

GENERAL PROVISIONS RELATING TO APPEALS.

Powers of Appellate Court.

107. (1) Subject to such conditions and limitations as may be prescribed, an appellate Court shall have power—

(a) to determine a case finally;
(b) to remand a case;
(c) to frame issues and refer them for trial;
(d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

Procedure in appeals from appellate decrees and orders.

108. The provisions of this Part relating to appeals from original decrees shall, so far as may be, apply to appeals—

(a) from appellate decrees, and
(b) from orders made under this Code or under any special or local law in which a different procedure is not provided.

Appeals to the King in Council.

109. Subject to such rules as may, from time to time, be made by His Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained, an appeal shall lie to His Majesty in Council—

When appeals lie to King in Council

- (a) from any decree or final order passed on appeal by a High Court or by any other Court of final appellate jurisdiction;
- (b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction: and
- (c) from any decree or order, when the case, as hereinafter provided, is certified to be a fit one for appeal to His Majesty in Council.

110. *In each of the cases mentioned in clauses* (*a*) and (*b*) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thoussand rupees or upwards, and the amount or value of the subject-matter in dispute on appeal to His Majesty in Council must be the same sum or upwards,

Value of subject-matter

or the decree or final order must involve, directly or indirectly, some claim or question to or respecting property of like amount or value,

and where the decree or final order appealed from affirms the decision of the Court immediately below the [illegible] ppeal must

[illegible] in section

[illegible] His Majesty

in Council—

- (a) from the decree or order of one Judge of a High Court established under the Indian High Courts Act, 1861,) 24 and 25 Vict., c. 104) or of one Judge of a Division Court, or of two or more

Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, where such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being; or

(b) from any decree from which under section 102 no second appeal lies.

Savings. 112. (1) Nothing contained in this Code shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.

(2) Nothing herein contained applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VIII.

REFERENCE, REVIEW AND REVISION.

Reference to High Court. 113. Subject to such conditions and limitations as may be prescribed, any Court may state a case and refer the same for the opinion of the High Court, and the High Court may make such order thereon as it thinks fit.

Review. 114. Subject as aforesaid, any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes,

may apply for a review of judgment to the Court which passed the decree or made the order and the Court may make such order thereon as it thinks fit.

Revision.

115. The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

PART IX.

SPECIAL PROVISIONS RELATING TO THE CHARTERED HIGH COURTS.

Part to apply only to certain High Courts.

116. This Part applies only to High Courts which are or may hereafter be established under the Indian High Courts Act, 1861. (24 & 25 Vict., c. 104).

Application of Code to High Courts.

117. Save as provided in this Part or in Part X or in rules, the provisions of this Code shall apply to such High Courts.

Execution of decree before ascertainment of costs.

118. Where any such High Court considers it necessary that a decree passed in the exercise of its original civil jurisdiction should be executed before the amount of the

costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

Unauthorized persons not to address Courts.

119. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its original civil jurisdiction, or to examine witnesses, except where the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

Provisions not applicable to High Court in original civil or insolvent jurisdiction.

120. (1) The following provisions shall not apply to the High Court in the exercise of its original civil jurisdiction, namely, sections 16, 17 and 20.

(2) Nothing in this C[illegible] extend or apply to any [illegible] [illegible]ercise of jurisdiction as

PART X.

RULES.

Effect of rules in First Schedule.

121. The rules in the First Schedule shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Part.

Power of certain High Courts to make rules.

122. High Courts established under the Indian High Courts Act, 1861, (24 & 25 Vict., c 104) and the Chief Courts of the Punjab and Lower Burma, may, from time to time, after previous publication make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence, and may by such rules annul, alter or add to all on any of the rules in the First Schedule.

123. (1) A Committee, to be called the Rule Committee, shall be constituted at each of the towns of Calcutta, Madras, Bombay, Allahabad, Lahore and Rangoon.

Constitution of Rule Committees in certain provinces

(2) Each such Committee shall consist of the following persons, namely :—

(a) three Judges of the High Court established at the town at which such Committee is constituted, one of whom at least has served as a District Judge or (in the Punjab or Burma) a Divisional Judge for three years.

(b) a barrister practising in that Court,

(c) an advocate (not being a barrister) or vakil or pleader enrolled in that Court,

(d) a Judge of a Civil Court subordinate to the High Court, and

(e) in the towns of Calcutta, Madras and Bombay, an attorney.

(3) The members of each such Committee shall be appointed by the Chief Justice or Chief Judge, who shall also nominate one of their number to be President :

Provided that, if the Chief Justice or Chief Judge elects to be himself a member of a Committee, the number of other Judges appointed to be members shall be two, [illegible] the President.

(4) Each member of any such Committee shall hold office for such period as may be prescribed by the Chief Justice or Chief Judge in this behalf ; and whenever any member retires, resigns, dies or ceases to reside in the [illegible]

(5) There shall be a Secretary to each such Committee who shall be appointed by the Chief Justice or Chief Judge and shall receive such remuneration as may be

provided in this behalf by the Governor-General in Council or by the Local Government, as the case may be.

Committee to report to High Court.

124. Every Rule Committee shall make a report to the High Court established at the town at which it is constituted on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under section 122 the High Court shall take such report into consideration.

Power of other High Courts to make rules

125. High Courts, other than the Courts specified in section 122, may exercise the powers conferred by that section in such manner and subject to such conditions as the Governor-General in Council may determine:

Provided that any such High Court may, after previous publication, make a rule extending within the local limits of its jurisdiction any rules which have been made by any other High Court.

Rules subject to sanction.

126. Rules made under the foregoing provisions shall be subject to the previous sanction of the following authorities, namely:—

(a) if the rule is made by a High Court established under the Indian High Courts Act, 1861, (24 & 25 Vict., c. 104) to the sanction of the authority prescribed by section 15 of that Act for rules made under that section:

(b) if the rule is made by any other High Court, to the saction of the Local Government.

Publication of rules

127. Rules so made and sanctioned shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the same force and effect, within the local limits of the jurisdiction of the High Court which made them, as if they had been contained in the First Schedule.

128. (1) Such rules shall be not inconsistent with the provisions in the body of this Code, but, subject thereto, may provide for any matters relating to the procedure of Civil Courts.

Matters for which rules may provide

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely :—

(a) the service of summonses, notices and other processes by post or any other manner either generally or in any specified areas and the proof of such service ;

(b) the maintenance and custody, while under attachment, of live-stock and other moveable property the fees payable for such maintenance and custody, the sale of such live-stock and property and the proceeds of such sale ;

(c) procedure in suits by way of counter-claim, and the valuation of such suits for the purposes of jurisdiction ;

(d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts ,

(e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not ·

(f) summary procedure—

(i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising—

on a contract express or implied ; or on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty ; or

on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only; or

on a trust: or

(u) in suits for the recovery of immoveable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant;

(g) procedure by way of originating summons;

(h) consolidation of suits, appeals and other proceedings;

(i) delegation to any Registrar, Prothonotary or Master or other official of the Court of any judicial, quasi-judicial and non-judicial duties; and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Civil Courts.

Power of Chartered High Courts to make rules as to their original civil procedure

129. Notwithstanding anything in this Code, any High Court established under the Indian High Courts Act, 1861, (24 & 25 Vict., c. 104) may make such rules not inconsistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction as it shall think fit, and nothing herein contained shall affect the validity of any such rules in force at the commencement of this Code.

Power of other High Courts to make rules as to matters other than procedure.

130. A High Court not established under the Indian High Courts Act, 1861, (24 & 25 Vict., c. 104) may, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might,

under section 15 of that Act, make with respect to any such matter for any part of the territories under its jurisdiction which is not included *within the limits* of a Presidency-town.

Publication of rules.

131. Rules made in accordance with section 129 or section 130 shall be published in the Gazette of India or in the local official Gazette, as the case may be, and shall from the date of publication or from such other date as may be specified have the force of law.

PART XI.

MISCELLANEOUS.

Exemption of certain women from personal appearance

132. (*1*) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal appearance in Court.

(*2*) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process in any case in which the arrest of women is not prohibited by this Code.

Exemption of other persons.

133. (*1*) The Local Government may, by notification in the local official Gazette, exempt from personal appearance in Court any person whose rank in the opinion of such Government, entitle him to the privilege of exemption.

(*2*) The names and residences of the persons so exempted shall, from time to time, be forwarded to the High Court by the Local Government and list of such persons shall be kept in such Court and a list of such persons reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

(*3*) Where any person so exempted claims the privilege of such exemption, and it is consequently necessa

to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

Arrest other than in execution of decree.

134. The provisions of sections 55, 57 and 59 shall apply, so far as may be, to all persons arrested under this Code.

Exemption from arrest under civil process.

135. (1) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognised agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process, other than process issued by such tribunal for contempt of Court, while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

(3) Nothing in sub-section (2) shall enable a judgment-debtor to claim exemption from arrest under an order for immediate execution or where such judgment-debtor attends to show cause why he should not be committed to prison in execution of a decree.

Procedure where person to be arrested or property to be attached is outside district.

136. (1) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the

warrant or order, together with the probable amount of the costs of the arrest or attachment.

(2) The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

(4) Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or at Bombay, or of the Chief Court of Lower Burma, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court.

Language of subordinate Court.

137. (1) The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate Court until the Local Government otherwise directs.

(2) The Local Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Court shall be written.

(3) Where this Code requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.

Power for Local Government to require evidence to be recorded in English

138. (1) The Local Government may, by notification in the local official Gazette, direct with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall be taken down by him in the English language and in manner prescribed.

(2) Where a Judge is prevented by any sufficient [illegible] ub-section [illegible] ence to be [illegible] Court.

Oath on affidavit by whom to be administered.

139. In the case of any affidavit under this Code—

(a) any Court of Magistrate, or

(b) any officer or other person whom a High Court may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

may administer the oath to the deponent.

Assessors in causes of salvage etc

140. (1) In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon request of either party to such cause, summon to its assistance, in such manner as it may direct or as may be prescribed, two competent assessors; and such assessors shall attend and assist accordingly.

(2) Every such assessor shall receive such fees fo his attendance, to be paid by such of the parties as th Court may direct or as may be prescribed.

Miscellaneous proceedings.

141. The procedure provided in this Code in regar to suits shall be followed, as far as it ca be made applicable, in all proceeding in any Court of civil jurisdiction.

Orders and notices to be in writing.

142. All orders and notices served on or given to any person under the provisions of this Code shall be in writing.

Postage.

143. Postage, where chargeable on a notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed before the communication is made:

Provided that the Local Government, with the previous sanction of the Governor-General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

Application for restitution.

144. (1) Where and in so far as a decree is varied or reversed, the Court of first instance shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation or reversal.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

Enforcement of liability of surety.

145. Where any person has become liable as surety—

(a) for the performance of any decree or any part thereof, or

(b) for the restitution of any property taken in execution of a decree, or

(c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall, for the purposes of appeal, be deemed a party within the meaning of section 47 :

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

Proceedings by or against representatives.

146. Save as otherwise provided by this Code or by any law for the time being in force, where any proceeding may be taken or application made by or against any person, then the proceeding may be taken or the application may be made by or against any person claiming under him.

Consent or agreement by persons under disability.

147. In all suits to which any person under disability is a party, any consent or agreement as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person were under no disability and had given such consent or made such agreement.

Enlargement of time.

148. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

149. Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court-fee; and upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.

Power to make up deficiency of court fees.

150. Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under this Code upon the Court from which the business was so transferred.

Transfer of business

151. Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Saving of inherent powers of Court

152. Clerical or arithmetical mistakes in judgments decrees or orders or errors arising therein from any accidental slip or omissio may at any time be corrected by th Court either of its own motion or on the application of an of the parties.

Amendment of judgments, decrees, or orders

153. The Court may at any time, and on such tern as to costs or otherwise as it may thin fit, amend any defect or error in ar proceeding in a suit; and all necessa amendments shall be made for the purpose of determinir the real question or issue raised by or depending on su proceeding.

General power to amend

154. Nothing in this Code shall affect any present right of appeal which shall have accrued to any party at its commencement.

Saving of present right of appeal

155. The enactments mentioned in the Fourth Schedule are hereby amended to the extent specified in the fourth column thereof.

Amendment of certain Acts

156. The enactments mentioned in the Fifth Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeals

157. Notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed, forms framed, appointments made and powers conferred under Act VIII of 1859 or under any Code of Civil Procedure or any Act amending the same or under any other enactment hereby repealed shall, so far as they are consistent with this Code, have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed and conferred under this Code and by the authority empowered thereby in such behalf.

Continuance of orders under repealed enactments

158 In every enactment or notification passed or issued before the commencement of this Code in which reference is made to or to any Chapter or section of Act VIII of 1859 or any Code of Civil Procedure or any Act amending the same or any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Part, Order, section or rule.

Reference to Code of Civil Procedure and other repealed enactments

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Parties to Suits.

ORDER II.

Frame of Suit.

The First Schedule.

ORDER I.

Parties to Suits.

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ORDER XV.

Disposal of the Suit at the first hearing.

ORDER XVI.

Summoning and Attendance of Witnesses.

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ORDER I.

Parties to Suits.

Who may be joined as plaintiffs.

1. All persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if such persons brought separate suits, any common question of law or fact would arise.

Power of Court to order separate trials.

2. Where it appears to the Court that any joinder of plaintiffs may embarrass or delay the trial of the suit, the Court may put the plaintiffs to their election or order separate trials or make such other order as may be expedient.

Who may be joined as defendants

3. All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where if separate suits were brought against such persons any common question of law or fact would arise.

Court may give judgment for or against one or more of joint parties

4. Judgment may be given without any amendment—

(*a*) for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to;

(*b*) against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

Defendant need not be interested in all the relief claimed

5 It shall not be necessary that every defendant shall be interested as to all the relief claimed in any suit against him.

Joinder of parties liable on same contract.

6. The plaintiff may, at his option, join as parties to [illegible] ons [illegible] able on any one c [illegible] of exchange, hundis and promissory notes.

When plaintiff in doubt from whom redress is to be sought.

7. Where the plaintiff is in doubt as to the person from whom he is entitled to obtain redress, he may join two or more defendants in order that the question as to which of the defendants is liable, and to what extent, may be determined as between all parties.

8. (*1*) Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such persons either by personal service or, where from the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

One person may sue or defend on behalf of all in same interest.

(*2*) Any person on whose behalf or for whose benefit a suit is instituted or defended under sub-rule (*1*) may apply to the Court to be made a party to such suit.

9. No suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Misjoinder and non-joinder

10. (*1*) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

Suit in name of wrong plaintiff

(*2*) The Court may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name

Court may strike out or add parties

of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(3) No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.

Where defendant added plaint to be amended.

(4) Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.

(5) Subject to the provisions of the Indian Limitation Act, 1877, (XV of 1877), section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.

Conduct of suit

11. The Court may give the conduct of the suit to such person as it deems proper.

Appearance of one of several plaintiffs or defendants for others

12. (1) Where there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding: and in like manner, where there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding.

(2) The authority shall be in writing signed by the party giving it and shall be filed in Court.

Objection as to non-joinder or misjoinder

13. All objections on the ground of non-joinder or misjoinder of parties shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or

before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.

ORDER II.

Frame of Suit.

Frame of suit.

1. Every suit shall as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and to prevent further litigation concerning them.

Suit to include the whole claim

2. (1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Relinquishment of part of claim

(2) Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Omission to sue for one of several reliefs

(3) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

Explanation.—For the purposes of this rule an obli-

Order II.—Frame of Suit. Order III—Recognized Agents and Pleaders. Order IV.—Institution of Suits.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1905, 1906 and 1907 is due and unpaid. A sues B in 1908 only for the rent due for 1906. A shall not afterwards sue B for the rent due for 1905 or 1907.

Joinder of causes of action

3. Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit

Only certain claim to be joined for recovery of immoveable property

4. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, except—

(a) claims for mesne-profits or arrears of rent in respect of the property claimed or any part thereof ;

(b) claims for damages for breach of any contract under which the property or any part thereof is held ; and

(c) claims in which the relief sought is based on the same cause of action :

Provided that nothing in this rule shall be deemed to prevent any party in a suit for foreclosure or redemption from asking to be put into possession of the mortgaged property.

5. No claim by or against an executor, administrator or heir as such shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

Claims by or against executor, administrator or heir.

6. Where it appears to the Court that any causes of action joined in one suit cannot be conveniently tried or disposed of together, the Court may order separate trials or make such other order as may be expedient.

Power of Court to order separate trials.

7. All objections on the ground of misjoinder of causes of action shall be taken at the earliest possible opportunity and, in all cases where issues are settled, at or before such settlement, unless the ground of objection has subsequently arisen, and any such objection not so taken shall be deemed to have been waived.

Objection as to misjoinder.

ORDER III.

Recognized Agents and Pleaders.

1. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent or by a pleader duly appointed to act on his behalf :

Appearances etc., may be in person, by recognized agent or by pleader.

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

2. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

Recognized agent

(a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

(b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

3. (1) Processes served on the recognized agent of a party shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

Service of process on recognized agent

(2) The provisions for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

4 (1) The appointment of a pleader to make or do any appearance, application or act for any person shall be in writing, and shall be signed by such person or by his recognized agent or by some other person duly authorized by power-of-attorney to act in this behalf.

Appointment of pleader

(2) Every such appointment, when accepted by a pleader, shall be filed in Court, and shall be considered to be in force until determined with the leave of the Court, by a writing signed by the client or the pleader, as the case may be, and filed in Court, or until the client or the pleader dies or until all proceedings in the suit are ended so far as regards the client.

No party to be ordered to appear in person unless resident within certain limits.

4. No party shall be ordered appear in person unless he resides—

(a) within the local limits of the Court's ordina original jurisdiction, or

(b) without such limits but at a place less than fi or (where there is railway or steamer co munication or other established public co veyance for five-sixths of the distance betwe the place where he resides and the place whe the Court is situate) less than two hundr miles distance from the court-house.

Summons to be either to settle issues or for final disposal.

5. The Court shall determine, at the time of issui the summons, whether it shall be the settlement of issues only, or for final disposal of the suit: and the su mons shall contain a direction accordingly :

Provided that, in every suit heard by a Court of Sm Causes, the summons shall be for the final disposal of suit.

Fixing day for appearance of defendant.

6. The day for the appearance of the defendant sh be fixed with reference to the curr business of the Court, the place of sidence of the defendant and the t necessary for the service of the summons ; and the shall be so fixed as to allow the defendant sufficient t to enable him to appear and answer on such day.

Summons to order defendant to produce documents relied on by him.

7. The summons to appear and answer shall or the defendant to produce all docum in his possession or power upon whic intends to rely in support of his cas

On issue of summons for final disposal, defendant to be directed to produce his witnesses.

8. Where the summons is for the final disposal of suit, it shall also direct the defen to produce, on the day fixed for his pearance, all witnesses upon whose dence he intends to rely in support of his case.

Service of Summons.

9. (1) Where the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall, unless the Court otherwise directs, be delivered or sent to the proper officer to be served by him or one of his subordinates.

Delivery or transmission of summons for service.

(2) The proper officer may be an officer of a Court other than that in which the suit is instituted, and, where he is such an officer, the summons may be sent to him by post or in such other manner as the Court may direct.

10. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

Mode of service.

11. Save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant.

Service on several defendants.

12. Wherever it is practicable, service shall be made on the defendant in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

Service to be on defendant in person when practicable, or on his agent.

13. (1) In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

Service on agent by whom defendant carries on business.

(2) Service substituted by order of the Court shall b as effectual as if it had been made o the defendant personally.

Effect of substituted service.

(3) Where service is substituted by order of the Court the Court shall fix such time for th appearance of the defendant as the ca may require.

Where service substituted time for appearance to be fixed.

21. A summons may be sent by the Court by which it is issued, whether within or withou the province, either by one of its officer or by post to any Court (not being th High Court) having jurisdiction in th place where the defendant resides.

Service of summons where defendant resides within jurisdiction of another Court

22. Where a summons issued by any Court establish ed beyond the limits of the towns o Calcutta, Madras, Bombay and Rangoon is to be served within any such limits it shall be sent to the Court of Small Causes within whose jurisdiction it is to be served.

Service, within Presidency-towns and Rangoon, of summons issued by Courts outside.

23. The Court to which a summons is sent under rule 21 or rule 22 shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court of issue, together with the record (if any) of its proceedings with regard thereto.

Duty of Court to which summons is sent

24. Where the defendant is confined in a prison, the summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant.

Service on defendant in prison

25. Where the defendant resides out of British India and has no agent in British India empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing

and sent to him by post, if there is postal communication between such place and the place where the Court is situate.

Service in foreign territory through Political Agent or Court

26. Where—

(a) in the exercise of any foreign jurisdiction vested in his Majesty or in the Governor-General in Council, a Political Agent has been appointed, or a Court has been established or continued, with power to serve a summons issued by a Court under this Code in any foreign territory in which the defendant resides, or

(b) the Governor-General in Council has, by notification in the Gazette of India, declared that any summons so issued may be served by any Court situate in any such territory and not established or continued in the exercise of such jurisdiction as aforesaid,

the summons may be sent to such Political Agent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Political Agent or Court returns the summons with an endorsement signed by such Political Agent or by the Judge or other officer of the Court that the summons has been served on the defendant in manner hereinbefore directed such endorsement shall be deemed to be evidence of service.

Service on civil public officer or on servant of railway company or local authority

27. Where the defendant is a public officer not belonging to His Majesty's military or naval forces or His Majesty's Indian Marine Service,) or is the servant of a Railway Company or local authority, the Court may, if it appears to it that the summons may be most conveniently so served, send it for service on the defendant to the head of the office in which he is employed, together with a copy to be retained by the defendant.

28. Where the defendant is a soldier, the Court shall send the summons for service to his commanding officer together with a copy to be retained by the defendant.

Service on soldiers.

29. (1) Where a summons is delivered or sent to any person for service under rule 24, rule 27 or rule 28, such person shall be bound to serve it, if possible, and to return it under his signature, with the written acknowledgment of the defendant, and such signature shall be deemed to be evidence of service.

Duty of person to whom summons is delivered or sent for service.

(2) Where from any cause service is impossible, the summons shall be returned to the Court with a full statement of such cause and of the steps taken to procure service, and such statement shall be deemed to be evidence of non-service.

30. (*1*) The Court may, notwithstanding anything hereinbefore contained, substitute for a summons a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is, in the opinion of the Court, of a rank entitling him to such mark of consideration.

Substitution of letter for summons.

(2) A letter substituted under sub-rule (*1*) shall contain all the particulars required to be stated in a summons, and, subject to the provisions of sub-rule (*3*), shall be treated in all respects as a summons.

(*3*) A letter so substituted may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit, and, where the defendant has an agent empowered to accept service, the letter may be delivered or sent to such agent.

ORDER VI.

Pleadings generally.

Pleadings.

1. "Pleading" shall mean plaint or written statement.

Pleading to state material facts and not evidence.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided into paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures.

Forms of pleading.

3. The forms in appendix A when applicable, and where they are not applicable forms of the like character, as nearly as may be, shall be used for all pleadings.

Particulars to be given where necessary.

4. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.

Further and better statement, or particulars.

5. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.

Condition precedent.

6. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant, as the case may be; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the

case of the plaintiff or defendant shall be implied in his pleading.

Departure.

7. No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

Denial of contract

8. Where a contract is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract alleged or of the matters of fact from which the same may be implied, and not as a denial of the legality or sufficiency in law of such contract.

Effect of document to be stated

9. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof unless the precise words of the document or any part thereof are material.

Malice, knowledge, etc.

10. Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

Notice.

11. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, are material.

Implied contract or relation

12. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances, it shall be

sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations or circums- [illegible] And if in such [illegible] in the alterna- [illegible] one as to be implied from such circumstances, he may state the same in the alternative.

Presumptions of law

13. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied, (e.g., consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim).

Pleading to be signed.

14. Every pleading shall be signed by the party and his pleader (if any): Provided that where a party pleading is, by reason of absence or for other good cause, unable to sign the pleading, it may be signed by any person duly authorized by him to sign the same or to sue or defend on his behalf.

Verification of pleadings.

15. (1) Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

(2) The person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(3) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

Striking out pleadings.

16. The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be

7. Every plaint shall state specifically the relief which the plaintiff claims either simply or in the alternative, and it shall not be necessary to ask for general or other relief which may always be given as the Court may think just to the same extent as if it had been asked for. And the same rule shall apply to any relief claimed by the defendant in his written statement.

Relief to be specifically stated

8. Where the plaintiff seeks relief in respect of several distinct claims or causes of action founded upon separate and distinct grounds, they shall be stated as far as may be separately and distinctly.

Relief founded on separate grounds

9. (1) The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it; and, if the plaint is admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief claimed in the suit, in which case he shall present such statements.

Procedure on admitting plaint

Concise statements.

(2) Where the plaintiff sues, or the defendant or any of the defendants is sued, *in a representative capacity*, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

(3) The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

(4) The chief ministerial officer of the Court shall sign such *list* and copies or statements if, on examination, he finds them to be correct.

10. (1) The plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been [in]stituted.

[R]eturn of plaint.

(2) On returning a plaint the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting [i]t, and a brief statement of the reasons for returning it.

Procedure on return[in]g plaint.

11. The plaint shall be rejected in the following cases :—

Rejection of plaint.

(a) where it does not disclose a cause of action :

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so :

(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so .

(d) where the suit appears from the statement in the plaint to be barred by any law.

12. Where a plaint is rejected the Judge shall record an order to that effect with the reason for such order.

Procedure on rejecting plaint.

13. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Where rejection of plaint does not preclude presentation of fresh plaint.

Documents relied on in plaint.

14. (1) Where a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

Production of document on which plaintiff sues

(2) Where he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

List of other documents

15. Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is

Statement in case of documents not in his possession or power.

16. Where the suit is founded upon a negotiable instrument, and it is proved that the instrument is lost, and an indemnity is given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may pass such decree as it would have passed if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Suits on lost negotiable instruments.

17. (1) Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891 (XVIII. of 1891), where the document on which the plaintiff sues is an entry in a shop-book or other account, in his possession or power, the plaintiff shall produce the book or account at the time of filing the plaint, together with a copy of the entry on which he relies.

Production of shop-book.

(2) The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original, shall, if it is found correct, certify it to be so and return the book to the plaintiff and cause the copy to be filed.

[...]ginal entry to be [...]ed and returned.

18. (1) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

[...]admissibility of [...]ment not produced [...]n plaint filed.

(2) Nothing in this rule applies to documents produced for cross-examination of the defendant's witnesses or in answer to any case set up by the defendant or handed to a witness merely to refresh his memory.

ORDER VIII.

Written Statement and Set-off.

1. The defendant may, and, if so required by the Court, shall at or before the first hearing or within such time as the Court may permit, present a written statement of his defence.

[...]itten statement.

2. The defendant must raise by his pleading all matters which show the suit not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence as, if not raised, would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the plaint, as, for instance, fraud, limitation, release, payment, performance, or facts showing illegality.

[...]w facts must be [...]lly pleaded

Denial to be specific.

3. It shall not be sufficient for a defendant in his written statement to deny generally the grounds alleged by the plaintiff, but the defendant must deal specifically with each allegation of fact of which he does not admit the truth, except damage

Evasive denial

4. Where a defendant denies an allegation of fact in the plaint, he must not do so evasively, but answer the point of substance. Thus, if it is alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with divers circumstances, it shall not be sufficient to deny it along with those circumstances.

Specific denial

5. Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability :

Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission

Particulars of set-off to be given in written statement.

6. (*1*) Where in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any *ascertained* sum of money legally recoverable by him from the plaintiff, not exceeding the pecuniary limits of the jurisdiction of the Court, and both parties fill the same character as they fill in the plaintiff's suit, the defendant may at the first hearing of the suit but not afterwards

atement

, set-off.

Effect of set-off

(2) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment

in respect both of the original claim and of the set-off: but this shall not affect the lien, upon the amount decreed, of any pleader in respect of the costs payable to him under the decree.

(3) The rules relating to a written statement by a defendant apply to a written statement in answer to a claim of set-off.

Illustrations.

(a) A bequeaths Rs. 2,000 to B and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D; then D sues C for the legacy. C cannot set off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(b) A dies intestate and in debt to B. C takes out administration to A's effects and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(c) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set off. The amount not being ascertained cannot be set off.

(d) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set off.

(e) A sues B for compensation on account of trespass. B holds a promissory note for Rs. 1,000 from A and claims to set off that amount against any sum that A may recover in the suit. B may do so for, as soon as A recovers, both sums are definite pecuniary demands.

(f) A and B sue C for Rs. 1,000. C cannot set off debt due to him by A alone.

(g) A sues B and C for Rs. 1,000. B cannot set off debt due to him alone by A.

(h) A owes the partnership firm of B and C Rs. 1,000. B dies, leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set off the debt of Rs. 1,000.

Defence or set-off founded on separate grounds.

7. Where the defendant relies upon several distinct grounds of defence or set-off founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly.

New ground of defence.

8. Any ground of defence which has arisen after the institution of the suit or the presentation of a written statement claiming a set-off may be raised by the defendant or plaintiff, as the case may be, in his written statement.

Subsequent pleadings.

9. No pleading subsequent to the written statement of a defendant other than by way of defence to a set-off shall be presented except by the leave of the Court and upon such terms as the Court thinks fit, but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time for presenting the same.

Procedure when party fails to present written statement called for by Court.

10. Where any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pronounce judgment against him, or make such order in relation to the suit as it thinks fit.

ORDER IX.

Appearance of Parties and Consequence of Non-appearance.

Parties to appear on day fixed in summons for defendant to appear and answer.

1. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard unless the hearing is adjourned to a future day fixed by the Court.

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs.

2. Where on the day so fixed it is found that the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the court-fee or postal charges (if any) chargeable for such service, the Court may make an order that the suit be dismissed:

Provided that no such order shall be made although the summons has not been served upon the defendant, if on the day fixed for him to appear and answer he attends in person or by agent when he is allowed to appear by agent.

Where neither party appears, suit to be dismissed.

3. Where neither party appears when the suit is called on for hearing, the Court may make an order that the suit be dismissed.

Plaintiff may bring fresh suit or Court may restore suit to file.

4. Where a suit is dismissed under rule 2 or rule 3, the plaintiff may (subject to the law of limitation) bring a fresh suit, or he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his not paying the Court-fee and postal charges (if any) required within the time fixed before the issue of the summons, or for his non-appearance, as the case may be, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

5. (1) Where, after a summons has been issı the defendant, or to one of se defendants, and returned unserve plaintiff fails for a period of one from the date of the return made t Court by the officer ordinarily certifying to the returns made by the serving officers, to apply fe issue of a fresh summons and to satisfy the Court th has used his best endeavours to discover the resider the defendant who has not been served, or that defendant is avoiding service of process, the Court make an order that the suit be dismissed as against defendant.

Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons

(2) In such case the plaintiff may (subject to the of limitation) bring a fresh suit.

6. (1) Where the plaintiff appears and the defen does not appear when the suit is c on for hearing, then—

Procedure when only plaintiff appears

(a) if it is proved that the summons was duly se the Court may procee *parte*;

When summons duly served

(b) if it is not proved that the summons was served, the Court shal rect a second summons issued and served on the defendant;

When summons not duly served.

(c) if it is proved that the summons was serve the defendant, but no sufficient time to en him to appear and answer on the day fixed in the summ the Court shall postpone the hearing of the suit future day to be fixed by the Court, and shall di notice of such day to be given to the defendant.

When summons served, but not in due time.

(2) Where it is owing to the plaintiff's default the summons was not duly served or was not serve *sufficient time*, the Court shall order the plaintiff to the costs occasioned by the postponement.

7. Where the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance.

8. Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court shall make an order that the suit be dismissed, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Procedure where defendant only appears.

9. (1) Where a suit is wholly or partly dismissed under rule 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit

Decree against plaintiff by default bars fresh suit.

(2) No order shall be made under this rule unless notice of the application has been served on the opposite party.

10. Where there are more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way

Procedure in case of non-attendance of one or more of several plaintiffs.

as if all the plaintiffs had appeared, or make such as it thinks fit.

Procedure in case of non-attendance of one or more of several defendants

11. Where there are more defendants than one one or more of them appear and others do not appear, the suit proceed, and the Court shall, at the of pronouncing judgment, make such order as it tl fit with respect to the defendants who do not appear.

Consequence of non-attendance without sufficient cause shown, of party ordered to appear in person.

12. Where a plaintiff or defendant, who has ordered to appear in person, does appear in person, or show suffic cause to the satisfaction of the C for failing so to appear, he shall subject to all the provisions of the foregoing r applicable to plaintiffs and defendants, respectively, do not appear.

Setting aside Decrees ex parte.

Setting aside decree ex parte against defendant.

13. In any case in which a decree is passed *ex p* against a defendant, he may appl the Court by which the decree was p ed for an order to set it aside; and if satisfies the Court that the summons was not duly serv or that he was prevented by any sufficient cause fr appearing when the suit was called on for hearing, Court shall make an order setting aside the decree against him upon such terms as to costs, payment i Court or otherwise as it thinks fit, and shall appoin day for proceeding with the suit:

Provided that where the decree is of such a natu that it cannot be set aside as against such defendant on it may be set aside as against all or any of the oth defendants also.

No decree to be set aside without notice to opposite party.

14. No decree shall be set aside on any such applic tion as aforesaid unless notice there has been served on the opposite party.

ORDER X.

Examination of Parties by the Court.

Ascertainment whether allegations in pleadings are admitted or denied.

1. At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Oral examination of party, or companion of party.

2. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court: and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

Substance of examination to be written.

3. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

Consequence of refusal or inability of pleader to answer.

4. (*1*) Where the pleader of any party who appears by a pleader or any such person accompanying a pleader as is referred to in rule 2, refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall appear in person on such day.

(2) If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pro-

nounce judgment against him, or make such order in relation to the suit as it thinks fit.

ORDER XI.

Discovery and Inspection.

Discovery by interrogatories.

1. In any suit the plaintiff or defendant by leave of the Court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer: Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose: Provided also that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

Particular interrogatories to be submitted.

2 On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the Court. In deciding upon such application, the Court shall take into account any offer, which may be made by the party sought to be interrogated, to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the Court shall *consider necessary* either for disposing fairly of the suit or for saving costs.

Costs of interrogatories.

3. In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court, either with or without an application for inquiry that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs

occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

Form of interrogatories.

4. Interrogatories shall be in Form No. 2 in Appendix C, with such variations as circumstances may require.

Corporations.

5. Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.

Objections to interrogatories by answer

6. Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit or that the matters inquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer.

Setting aside and striking out interrogatories.

7. Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous; and any application for this purpose may be made within seven days after service of the interrogatories.

Affidavit in answer, filing

8. Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the Court may allow.

Form of affidavit in answer.

9. An affidavit in answer to interrogatories shall be in Form No 3 in Appendix C, with such variations as circumstances may require.

No exception to be taken

10. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court.

11. Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further, either by affidavit or by *viva voce* examination, as the Court may direct.

Order to answer or answer further

12. Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit: Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

Application for discovery of documents.

13. The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made, shall specify which (if any) of the documents therein mentioned he objects to produce, and it shall be in Form No. 5. in Appendix C, with such variations as circumstances may require.

Affidavit of documents

14. It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

Production of documents

15. Every party to a suit shall be entitled at any time to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on such terms as to costs and otherwise as the Court shall think fit.

Inspection of documents referred to in pleadings or affidavits.

16. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in Form No. 7 in Appendix C, with such variations as circumstances may require.

Notice to produce.

17. The party to whom such notice is given shall, within ten days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his pleader, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form No. 8 in Appendix C, with such variations as circumstances may require.

Time for inspection when notice given.

18. (1) Where the party served with notice under rule 15 omits to give such notice of a time for inspection or objects to give

[illegible] for inspection.

. Every part[illegible] quiring any other party to state by affida- [illegible] one or more specific documents, to be [illegible] application, is or are, or has or have at [illegible] in his possession or power; and, if not [illegible] possession, when he parted with the same and [illegible] become thereof. Such application shall be made [illegible] vit stating that in the belief of the deponent [illegible] against whom the application is made has, or [illegible] possession or power the docu- [illegible] the application, and that [illegible] question in the suit, or to [illegible] them.

[illegible] Where the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court [illegible] satisfied that the right to the discovery or inspec- [illegible] ght depends on the determination of any issue or [illegible] n in dispute in the suit, or that for any other reason [illegible] desirable that any issue or question in dispute in the [illegible] should be determined before deciding upon the right [illegible] to discovery or inspection, order that such issue or [illegible] tion be determined first, and reserve the question as [illegible] to discovery or inspection.

[illegible] Where any party fails to comply with any order [illegible] plaintiff, [illegible] prosecution, and, if a defendant, to have his defence [illegible] struck out, and to be placed in the same position [illegible] if he had not defended, and the party interrogating [illegible] seeking discovery or inspection may apply to the Court [illegible] for an order to that effect, and an order may be made [illegible] accordingly.

22. Any party may, at the trial of a suit, use in [illegible] dence any one or more of the answers [illegible] any part of an answer of the [illegible]

party to interrogatories without putting in the others or the whole of such answer: Provided always that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last-mentioned answers ought not to be used without them, it may direct them to be put in.

23. This Order shall apply to minor plaintiffs and defendants, and to the next friends and guardians for the suit of persons under disability.

Order to apply to minors

(Order XII.—Admissions. Order XIII.—Production, Impounding and Return of Documents.)

ORDER XII.

Admissions.

1. Any party to a suit may give notice, by his pleading, or otherwise in writing, that he admits the truth of the whole or any part of the case of any other party.

Notice of admission of case.

2. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give the notice is, in the opinion of the Court, a saving of expense.

Notice to admit documents.

3. A notice to admit documents shall be in Form No. 9 in Appendix C, with such variations as circumstances may require.

Form of notice

4. Any party may, by notice in writing, at any time not later than nine days before the day fixed for the hearing, call on any other

Notice to admit facts.

arty to admit, for the purposes of the suit only, any pecific fact or facts mentioned in such notice. And in ase of refusal or neglect to admit the same within six lays after service of such notice, or within such further ime as may be allowed by the Court, the costs of proving uch fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless he Court otherwise directs: Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular suit, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice: Provided also that the Court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

Form of admissions

5. A notice to admit facts shall be in Form No. 10 in Appendix C, and admissions of facts shall be in Form No. 11 in Appendix C, with such variations as circumstances may require.

Judgment on admissions

6. Any party may at any stage of a suit, where admissions of fact have been made, either on the pleadings, or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties: and the Court may upon such application make such order, or give such judgment, as the Court may think just.

Affidavit of signature.

7. An affidavit of the pleader or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof is required.

Notice to produce documents.

8. Notice to produce documents shall be in Form No. 12 in Appendix C, with such variations as circumstances may require.

An affidavit of the pleader, or his clerk, of the service of any notice to produce, and of the time when it was served, with a copy of the notice to produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served.

9. If a notice to admit or produce specifies documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.

Costs

ORDER XIII.

Production, Impounding and Return of Documents.

1. (1) The parties or their pleaders shall produce, at the first hearing of the suit, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court has ordered to be produced.

Documentary evidence to be produced at first hearing

(2) The Court shall receive the documents so produced, Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs

2. No documentary evidence in the possession or power of any party which should have been but has not been produced in accordance with the requirements of rule I shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Court for the non-production thereof; and the Court receiving any such evidence shall record the reasons for so doing.

Effect of non production of documents

3. The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Rejection of irrelevant or inadmissible documents.

(1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :—

ments on do- admitted in

the number and title of the suit,

the name of the person producing the document,

the date on which it was produced, and

a statement of its having been so admitted ;

e endorsement shall be signed or initialled by the .

) Where a document so admitted is an entry in a account or record, and a copy thereof has been sub- ed for the original under the next following rule, articulars aforesaid shall be endorsed on the copy he endorsement thereon shall be signed or initialled e Judge.

(1) Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891, (VIII of 1891), where a document admitted in evidence in the suit is an entry in a letter-book or shop-book or other account irrent use, the party on whose behalf the book or unt is produced may furnish a copy of the entry.

ements ... on ... admitted en- books, accounts or ...

2) Where such a document is an entry in a public d produced from a public office or by a public officer, entry in a book or account belonging to a person than a party on whose behalf the book or account luced, the Court may require a copy of the entry to rnished—

(a) where the record, book or account is produced on behalf of a party, then by that party, or

(b) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

(3) Where a copy of an entry is furnished under foregoing provisions of this rule, the Court shall, causing the copy to be examined, compared and cert in manner mentioned in rule 17 of Order VII, mark entry and cause the book, account or record in wh occurs to be returned to the person producing it.

6. Where a ... evidence by ... art ... e shal endorsed thereon the particulars tioned in clauses (*a*), (*b*) and (*c*) 4, sub-rule (*1*), together with a statement of its been rejected, and the endorsement shall be sign initialled by the Judge.

Endorsements on documents rejected as inadmissible in evidence.

7. (1) Every document which has been admitted evidence, or a copy thereof whe copy has been substituted for the o nal under rule 5, shall form part of record of the suit.

Recording of admitted and return of rejected documents

(2) Documents not admitted in evidence shall form part of the record and shall be returned to the sons respectively producing them.

8. Notwithstanding anything contained in rule rule 7 of this Order or in rule 1 Order VII, the Court may, if it sufficient cause, direct any docum book produced before it in any be impounded and kept in the custody of an off the Court, for such period and subject to such con as the Court thinks fit.

Court may order any document to be impounded

9. (1) Any person, whether a party to the s not, desirous of receiving back document produced by him in th and placed on the record shall, the documents is impounded under rule 8, be entit receive back the same,—

Return of admitted documents.

(a) where the suit is one in which an appeal is not allowed, when the suit has been disposed of, and

(b) where the suit is one in which an appeal is allowed, when the Court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of :

ovided that a document may be returned at any earlier than that ... if the per- ... officer a cer- ... al and under- to produce the original if required to do so :

rovided also that no document shall be returned h, by force of the decree, has become wholly void or ss.

) On the return of a document admitted in evidence eipt shall be given by the person receiving it.

0. (1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other proceeding, and inspect the same.

may send for from its own or from other

) Every application made under this rule shall ... is supported by an ... material to the suit ... that the applicant t without unreasonable delay or expense obtain a authenticated copy of the record or of such portion f as the applicant requires, or that the production original is necessary for the purposes of justice.

) Nothing contained in this rule shall be deemed ble the Court to use in evidence any document

which under the law of evidence would be inadmi- in the suit.

11. The provisions herein contained as to documents shall, so far as may be, apply to other material objects producible evidence.

Provisions as to documents applied to material objects.

ORDER XIV.

Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon.

1. (1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

Framing of issues

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct issue

(4) Issues are of two kinds: (a) issues of fact, (b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.

2. Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on the issues of law only,

Issues of law and of fact.

ll try those issues first, and for that purpose may, if it nks fit, postpone the settlement of the issues of fact il after the issues of law have been determined.

aterials from which s may be framed

3. The Court may frame the issues from all or any of the following materials –

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties;
(b) allegations made in the pleadings or in answers to interrogatories delivered in the suit;
(c) the contents of documents produced by either party.

Court may examine itnesses or documents fore framing issues

4. Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, may adjourn the framing of the issues to a future day, nd may (subject to any law for the time being in force) ompel the attendance of any person or the production of ny document by the person in whose possession or power is by summons or other process.

Power to amend, and strike out, issues.

5. (1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks t, and all such amendments or additional issues as may e necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongy framed or introduced.

Questions of fact or law may by agreement be stated in form of issues.

6. Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the

finding of the Court in the affirmative or the negative of such issue,—

(a) a sum of money specified in the agreement or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement;

(b) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct; or

(c) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

7. Where the Court is satisfied, after making such inquiry as it deems proper,—

(a) that the agreement was duly executed by the parties,

(b) that they have a substantial interest in the decision of such question as aforesaid, and

(c) that the same is fit to be tried and decided,

it shall proceed to record and try the issue and state its finding or decision thereon in the same manner as if the issue had been framed by the Court;

and shall, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement; and, upon the judgment so pronounced, a decree shall follow.

ORDER XV.

Disposal of the Suit at the first hearing.

1. Where at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court
rties not at issue.
y at once pronounce judgment.

2. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of
e of several defen- e not at issue
or of fact, the Court may at once pronounce judgment or against such defendant and the suit shall proceed y against the other defendants.

3. (1) Where the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore
arties at issue
ovided, if the Court is satisfied that no further argument evidence than the parties can at once adduce is required on such of the issues as may be sufficient for the cision of the suit, and that no injustice will result from oceeding with the suit forthwith, the Court may oceed to determine such issues, and, if the finding thereon sufficient for the decision, may pronounce judgment cordingly, whether the summons has been issued for ttlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued r the settlement of issues only, the parties or their eaders are present and none of them objects.

(2) Where the finding is not sufficient for the decision, e Court shall postpone the further hearing of the suit nd shall fix a day for the production of such further idence, or for such further argument as the case equires.

4. Where the summons has been issued for the final disposal of the suit and either party fails without sufficient cause to produce the
Failure to produce vidence

evidence on which he relies, the Court may at once pronounce judgment, or may, if it thinks fit, after framing and recording issues, adjourn the suit for the production of such evidence as may be necessary for its decision upon such issues.

ORDER XVI.

Summoning and attendance of witnesses.

Summons to attend to give evidence or produce documents

1. At any time after the suit is instituted, the parties may obtain, on application to the Court or to such officer as it appoints in this behalf, summonses to persons whose attendance is required either to give evidence or to produce documents.

Expenses of witness to be paid into Court on applying for summons

2. (1) The party applying for a summons shall, before the summons is granted and within a period to be fixed, pay into Court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance.

Experts.

(2) In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

Scale of expenses.

(3) Where the Court is subordinate to a High Court regard shall be had, in fixing the scale of such expenses, to any rules made in that behalf.

Tender of expenses to witness

3. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

4. (1) Where it appears to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses or reasonable remuneration, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Procedure where insufficient sum paid in

(2) Where it is necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of such party; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Expenses of witnesses detained more than one day

5. [illegible] person to [illegible] document [illegible] ce at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

Time, p[illegible] pose of [illegible] be specified in summons

6. Any person may be summoned to produce a document, without being summoned to give evidence; and any person sum-

Summons to produce document.

moned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

Power to require persons present in Court to give evidence or produce document.

7. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his possession or power.

Summons how served

8. Every summons under this Order shall be served as nearly as may be in the same manner as a summons to a defendant, and the rules in Order V as to proof of service shall apply in the case of all summonses served under this rule.

Time for serving sum-

9. Service shall in all cases be made a sufficient time before the time specified in the sum- ... the person ... preparation ... ttendance is required.

Procedure where witness fails to comply with summons.

10. (1) Where a person to whom a summons has been issued either to attend to give evidence or to produce a document fails to attend or to produce the document in compliance with such summons, the Court shall, if the certificate of the serving-officer has not been verified by affidavit, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching the service or non-service of the summons.

(2) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, fail to attend or to produce ... th such summons or has ... may issue a proclamation ... evidence or to produce the document at a time and place to be named therein;

and a copy of such proclamation shall be *affixed on the* outer door or other conspicuous part of the house in which he ordinarily resides.

(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such person, and may make an order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the cost of attachment and of any fine which may be imposed under rule 12 :

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

If witness appears, attachment may be withdrawn

11. Where, *at any time after* the attachment of *his* property, such person appears and satisfies the Court,—

(*a*) *that he did not, without lawful excuse, fail to* comply with the summons or intentionally avoid service, and,

(*b*) where he has failed to attend at the time and [illegible] proclamation issued under [illegible] notice

the *Court shall direct that the property be released from* attachment, and shall make such order as to the costs of the attachment as it thinks fit.

Procedure if witness fails to appear

12. The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding five hundred rupees as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold or, if already attached under rule 10, to be sold for the purpose of satisfying all costs of such attachment, together with the amount of the said fine, if any :

Provided that, if the person whose attendance is required pays into Court the costs and fine aforesaid, the Court shall order the property to be released from attachment.

Mode of attachment

13. The provisions with regard to the attachment and sale of property in the execution of a decree shall, so far as they are applicable, be deemed to apply to any attachment and sale under this Order as if the person whose property is so attached were a judgment-debtor.

Court may of its own accord summon as witnesses strangers to suit

14. Subject to the provisions of this Code as to attendance and appearance and to any law for the time being in force, where the Court at any time thinks it necessary to examine any person other than a party to the suit and not called as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document

Duty of persons summoned to give evidence or produce document.

15. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

When they may depart.

16. (*1*) A person so summoned and attending shall, unless the Court otherwise directs, attend at each hearing until the suit has been disposed of.

(*2*) On the application of either party and the payment through the Court of all necessary expenses (*if any*), the Court may require any person so summoned and

ttending to furnish security to attend at the next or any ther hearing or until the suit is disposed of and, in efault of his furnishing such security, may order him o be detained in the civil prison.

Application of rules 10 to 13

17. The provisions of rules 10 to 13 shall, so far as they are applicable, be deemed to apply to any person who having attended in compliance with a summons departs, without lawful excuse, in contravention of rule 16.

Procedure where witness apprehended cannot give evidence or produce document

18. Where any person arrested under a warrant is brought before the Court in custody and cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give *reasonable bail or other security for his appearance* at such time and place as it thinks fit, and, on such bail or security being given, may release him, and, in default of his giving such bail or security, may order him to be detained in the civil prison.

No witness to be ordered to attend in person unless resident within certain limits

19. No one shall be ordered to attend in person to give evidence unless he resides—

(a) within the local limits of the Court's ordinary original jurisdiction, or
(b) without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where the Court is situate) less than two hundred miles distance from the Court-house.

Consequence of refusal of party to give evidence when called on by Court

20. Where any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and

4. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence of the Judge.

Witnesses to be examined in open Court.

5. In cases in which an appeal is allowed the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and the Judge shall, if necessary, correct the same, and shall sign it.

How evidence shall be taken in appealable cases.

6. Where the evidence is taken down in a language different from that in which it is given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it is given.

When deposition to be interpreted.

7. Evidence taken down under section 138 shall be in the form prescribed by rule 5 and shall be read over and signed and, as occasion may require, interpreted and corrected as if it were evidence taken down under that rule.

Evidence under section 138.

8. Where the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge and shall form part of the record.

Memorandum when evidence not taken down by Judge.

9. Where English is not the language of the Court but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence

given in English taken down in English, the Judge may take it down.

10. The Court may, of its own motion or on the application of any party or his pleader, take down any particular question and answer, or any objection to any question, if there appears to be any special reason for so doing.

Any particular question and answer may be taken down.

11. Where any question put to a witness is objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it together with the decision of the Court thereon.

Questions objected to and allowed by Court.

12. *The Court may record such remarks as it thinks* material respecting the demeanour of any witness while under examination.

Remarks on demeanour of witnesses.

13. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each *witness proceeds, shall make a memorandum* of the [illegible] oses, and such memoran- [illegible] by the Judge and shall [illegible]

Memorandum of evidence in unappealable cases.

14. (*1*) Where the Judge is unable to make a memorandum as required by this Order, he shall cause the reason of such inability to be *recorded, and shall cause the memorandum* to be made in writing from his dictation in open Court.

Judge unable to make such memorandum to record reasons of his inability.

(*2*) Every memorandum so made shall form part of the record.

15. (*1*) Where a Judge is prevented by death, *transfer* or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum taken

Power to deal with evidence taken before another Judge.

down or made under the foregoing rules as if such evidence or memorandum had been taken down or made by him or under his direction under the said rules and may proceed with the suit from the stage at which his predecessor left it.

(2) The provisions of sub-rule (1) shall, so far as they are applicable, be deemed to apply to evidence taken in a suit transferred under section 24.

Power to examine witness immediately.

16. (1) Where a witness is about to leave the jurisdiction of the Court, or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

(2) Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination, shall be given to the parties.

(3) The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and the Judge shall, if necessary, correct the same and shall sign it, and it may then be read at any hearing of the suit.

Court may recall and examine witness.

17. The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit

Power of Court to inspect.

18. The Court may at any stage of a suit inspect any property or thing concerning which any question may arise.

ORDER XIX.

Affidavits.

1. Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit, of any witness may be read at the hearing, on such conditions as the urt thinks reasonable :

ower to order any it to be proved by lavit.

Provided that where it appears to the Court that either rty *bonâ fide* desires the production of a witness for oss-examination and that such witness, can be produced, order shall not be made authorizing the evidence of ch witness to be given by affidavit.

2. (*1*) Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent.

Power to order at- ndance of deponent r cross-examination

(*2*) Such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court, or he Court otherwise directs.

3. (*1*) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief nay be admitted : provided that the grounds thereof are tated.

Matters to which affi- lavits shall be confined

(*2*) The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of, or extracts from documents, shall (unless the Court otherwise directs) be paid by the party filing the same.

ORDER XX.

Judgment and Decree.

1. The Court, after the case has been heard, shall pronounce judgment, in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment when pronounced.

2. A Judge may pronounce a judgment written but not pronounced by his predecessor.

Power to pronounce judgment written by Judge's predecessor

3. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it and, when once signed, shall not afterwards be altered or added to, save as provided by section 152 or on review.

Judgment to be signed

4. (*1*) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.

Judgments of Small Cause Courts

(*2*) Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

Judgments of other Courts.

5. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

Court to state its decision on each issue

6. (*1*) The decree shall agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit.

Contents of decree.

(2) The decree shall also state the amount of costs ncurred in the suit, and by whom or out of what property d in what proportions such costs are to be paid.

(3) The Court may direct that the costs payable to one rty by the other shall be set off against any sum which admitted or found to be due from the former to the tter.

7. The decree shall bear date the day on which the judgment was pronounced, and, when the Judge has satisfied himself that the ecree has been drawn up in accordance with the judgment, he shall sign the decree.

Date of decree.

8. Where a Judge has vacated office after pronouncing judgment but without signing the decree, a decree drawn up in accordance with such judgment may be signed by his successor or, *if the Court has ceased to exist*, by the Judge of any Court to which such Court was subordinate.

Procedure where Judge has vacated office before signing decree.

9. Where the subject-matter of the suit is immoveable property, the decree shall contain a description of such property sufficient to identify the same, and where such property can be identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

Decree for recovery of immoveable property.

10. Where the suit is for moveable property, and the decree is for the delivery of such property, the decree shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for delivery of moveable property.

11. (1) Where and in so far as a decree is for the payment of money, the Court may for any sufficient reason at the time of passing the decree order that payment of the amount decreed *shall be postponed or shall be made by* instalments, with or without interest, notwithstanding

Decree may direct payment by instalments.

anything contained in the contract under which the money is payable.

(2) After the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that payment of the amount decreed shall be postponed or shall be made by instalments on such terms as to the payment of interest, the attachment of the property of the judgment-debtor, or the taking of security from him, or otherwise, as it thinks fit.

Order, after decree, for payment by instalments.

12. (1) Where a suit is for the recovery of possession of immoveable property and for rent or mesne profits, the Court may pass a decree—

Decree for possession and mesne profit

(a) for the possession of the property;

(b) for the rent or mesne profits which have accrued on the property during a period prior to the institution of the suit or directing an inquiry as to such rent or mesne profits;

(c) directing an inquiry as to rent or mesne profits from the institution of the suit until—

(i) the delivery of possession to the decree-holder,

(ii) the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the Court, or

(iii) the expiration of three years from the date of the decree,

whichever event first occurs.

(2) Where an inquiry is directed under clause (b) or clause (c) a final decree in respect of the rent or mesne profits shall be passed in accordance with the result of such inquiry.

13. (1) Where a suit is for an account of any property and for its due administration under the decree of the Court, the Court shall, before passing the final decree, pass a preliminary decree ordering such accounts and inquiries to be taken and made, and giving such other directions as it thinks

Decree in administration suit.

(2) In the administration by the Court of the property of any deceased person, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being within the local limits of the Court in which the administration suit is pending with respect to the estates of persons adjudged or declared insolvent; and all persons who in any such case would be entitled to be paid out of such property may come in under the preliminary decree, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

14. (1) Where the Court decrees a claim to pre-emption in respect of a particular sale of property and the purchase-money has not been paid into Court, the decree shall—

Decree in pre-emption-suit.

(a) specify a day on or before which the purchase-money shall be so paid, and

(b) direct that on payment into Court of such purchase-money, together with the costs (if any) decreed against the plaintiff, on or before the day referred to in clause (a), the defendant shall deliver possession of the property to the plaintiff, whose title thereto shall be deemed to have accrued from the date of such payment, but that, if the purchase-money and the costs

(if any) are not so paid, the suit shall be dismissed with costs.

(2) Where the Court has adjudicated upon rival claims to pre-emption, the decree shall direct,—

(a) if and in so far as the claims decreed are equal in degree, that the claim of each pre-emptor complying with the provisions of sub-rule (1) shall take effect in respect of a proportionate share of the property including any proportionate share in respect of which the claim of any pre-emptor failing to comply with the said provisions would, but for such default, have taken effect; and,

(b) if and in so far as the claims decreed are different in degree, that the claim of the inferior pre-emptor shall not take effect unless and until the superior pre-emptor has failed to comply with the said provisions.

Decree in suit for dissolution of partnership.

15. Where a suit is for the dissolution of a partnership, or the taking of partnership accounts, the Court, before passing a final decree, may pass a preliminary decree declaring the proportionate shares of the parties, fixing the day on which the partnership shall stand dissolved or be deemed to have been dissolved, and directing such accounts to be taken, and other acts to be done, as it thinks fit.

Decree in suit for account between principal and agent.

16. In a suit for an account of pecuniary transactions between a principal and an agent, and in any other suit not hereinbefore provided for, where it is necessary, in order [illegible] from any party, [illegible] rt shall, before [illegible] decree directing such accounts to be taken as it thinks fit.

17. The Court may either by the decree directing an account to be taken or by any subsequent order give special directions with ...gard to the mode in which the account is to be taken or ...uched and in particular may direct that in taking the ...count the books of account in which the accounts in ...estion have been kept shall be taken as *prima facie* ...idence of the truth of the matters therein contained ...th liberty to the parties interested to take such objection ...ereto as they may be advised.

...pecial directions as ...ccounts.

18. Where the Court passes a decree for the partition of property or for the separate possession of a share therein, then,—

...ecree in suit for ...rtition of property ...separate possession ...a share therein

(*1*) if and in so far as the decree relates to an estate ...sessed to the payment of revenue to the Government, ...e decree shall declare the rights of the several parties ...terested in the property, but shall direct such partition ...r separation to be made by the Collector, or any gazett...d subordinate of the Collector deputed by him in this ...ehalf, in accordance with such declaration and with the ...rovisions of section 54 ;

(*2*) if and in so far as such decree relates to any other ...mmoveable property or to moveable property, the Court ...nay, if the partition or separation cannot be conveniently ...nade without further inquiry, pass a preliminary decree ...leclaring the rights of the several parties interested in ...he property and giving such further directions as may be ...required.

19. (*1*) Where the defendant has been allowed a set-off against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

Decree when set-off ...is allowed

(2) Any decree passed in a suit in which a set-off is claimed shall be subject to the same provisions in respect of appeal to which it would have been subject if no set-off had been claimed.

Appeal from decree relating to set-off

(3) The provisions of this rule shall apply whether the set-off is admissible under rule 6 of Order VIII or otherwise.

20. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

Certified copies of judgment and decree to be furnished

ORDER XXI.

Execution of Decrees and Orders.

Payment under Decree.

Modes of paying money under decree

1. (1) All money payable under a decree shall be paid as follows, namely :—

(a) into the Court whose duty it is to execute the decree ; or

(b) out of Court to the decree-holder : or

(c) otherwise as the Court which made the decree directs.

(2) Where any payment is made under clause (a) of sub-rule (1) notice of such payment shall be given to the decree-holder.

2. (1) Where any money payable under a decree of any kind is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree, and the Court shall record the same accordingly.

Payment out of Court to decree holder

(2) The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to

sue a notice to the decree-holder to show cause, on a day be fixed by the Court, why such payment or adjustment ould not be recorded as certified; and if, after service f such notice, the decree-holder fails to show cause why e payment or adjustment should not be recorded as ertified, the Court shall record the same accordingly.

(3) A payment or adjustment, which has not been ertified or recorded as aforesaid, shall not be recognized y any Court executing the decree.

Courts executing Decrees.

Lands situate in more than one jurisdiction

3. Where immoveable property forms one estate or tenure situate within the local limits of the jurisdiction of two or more Courts, any one of such Courts may attach and sell the entire estate or tenure.

Transfer to Court of Small Causes.

4. Where a decree has been passed in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes, and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificates mentioned in rule 6; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

Mode of transfer.

5. Where the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, where the Court to which the decree is to be sent for execution is situate in a different district,

the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure where Court desires that its own decree shall be executed by another Court.

6. The Court sending a decree for execution shall send—

(a) a copy of the decree;

(b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unsatisfied ; and

(c) a copy of any order for the execution of the decree, or, if no such order has been made, a certificate to that effect.

Court receiving copies of decree, etc., to file same without proof

7. The Court to which a decree is so sent shall cause such copies and certificates to be filed, without any further proof of the decree or order for execution, or of the copies thereof, unless the Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Execution of decree or order by Court to which it is sent

8. Where such copies are so filed, the decree or order may, if the Court to which it is sent is the District Court, be executed by such Court or be transferred for execution to any subordinate Court of competent jurisdiction.

Execution by High Court of decree transferred by other Court.

9. Where the Court to which the decree is sent for execution is a High Court, the decree shall be executed by such Court in the same manner as if it had been passed by such Court in the exercise of its ordinary original civil jurisdiction.

Application for execution.

10. Where the holder of a decree desires to execute it, he shall apply to the Court which passed the decree or to the officer (if any) appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court then to such Court or to the proper officer thereof.

Application for execution

11. (*1*) Where a decree is for the payment of money the Court may, on the oral application *of the decree-holder at the time of the* passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court.

Oral application

(*2*) Save as otherwise provided by sub-rule (*1*), every application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely :—

Written application

(*a*) the number of the suit ;
(*b*) the names of the parties ;
(*c*) the date of the decree ;
(*d*) whether any appeal has been preferred from the decree ;
(*e*) whether any, and (if any) what, payment or other adjustment of the matter in controversy has been made between the parties subsequently to the decree ;
(*f*) whether any, and (if any) what, previous applications have been made for the execution of the decree, the dates of such applications and their results ;

(g) the amount with interest (if any) due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be executed;

(h) the amount of the costs (if any) awarded;

(i) the name of the person against whom execution of the decree is sought; and

(j) the mode in which the assistance of the Court is required, whether—

(i) by the delivery of any property specifically decreed;

(ii) by the attachment and sale, or by the sale without attachment, of any property;

(iii) by the arrest and detention in prison of any person;

(iv) by the appointment of a receiver;

(v) otherwise, as the nature of the relief granted may require.

(3) The Court to which an application is made under sub-rule (2) may require the applicant to produce a certified copy of the decree.

Application for attachment of moveable property not in judgment-debtor's possession

12. Where an application is made for the attachment of any moveable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of immoveable property to contain certain particulars.

13. Where an application is made for the attachment of any immoveable property belonging to a judgment-debtor, it shall contain at the foot—

(a) a description of such property sufficient to identify the same and, in case such property can be

identified by boundaries or numbers in a record of settlement or survey, a specification of such boundaries or numbers ; and

(b) a specification of the judgment-debtor's share or interest in such property to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

Power to require certified extract from Collector's register in certain cases

14. Where an application is made for the attachment of any land which is registered in the office of the Collector, the Court may require the applicant to produce a certified extract from the register of such office, specifying the persons registered as proprietors of, or as possessing, any transferable interest in, the land or its revenue, or as liable to pay revenue for the land, and the shares of the registered proprietors.

Application for execution by joint decree-holder

15. (1) Where a decree has been passed jointly in favour of more persons than one, any one or more of such persons may, unless the decree imposes any condition to the contrary apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the legal representatives of the deceased.

(2) Where the Court sees sufficient cause for allowing the decree to be executed on an application made under this rule it shall make such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

Application for execution by transferee of decree.

16. Where a decree or, if a decree has been passed jointly in favour of two or more persons, the interest of any decree-holder in the decree is transferred by assignment in writing or by operation of law, the transferee may apply for execution of the decree to the Court which passed it; and the decree may be executed in the same manner and

subject to the same conditions as if the application were made by such decree-holder :

Provided that, where the decree, or such interest as aforesaid, has been transferred by assignment, notice of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to its execution:

Provided also that, where a decree for the payment of money against two or more persons has been transferred to one of them, it shall not be executed against the others.

Procedure on rece[illegible] ing application for e[illegible] cution of decree

17. (1) O[illegible] execution [illegible] sub- [illegible] ertain [illegible] of rules 11 to [illegible] complied wi[illegible] the Court n[illegible] defect to [illegible] be fixed by it.

(2) Wh[illegible] under the pro- [illegible] to have been an [illegible] and presented on [illegible] rule shall be [illegible] Court shall enter in the proper register a note of the application and the date on which it was made, and shall, subject to the provisions hereinafter contained, order execution of the decree according to the nature of the application :

Provided that in the case of a decree for the payment of money, the value of the property attached shall, as nearly as may be, correspond with the amount due under the decree.

18. (1) Where applications are made to a Court for the execution of cross-decrees in separate suits for the payment of two sums of money passed between the same parties and capable of execution at the same time by such Court, then—

Execution in case of cross-decrees.

(a) if the two sums are equal, satisfaction shall be entered upon both decrees ; and

(b) if the two sums are unequal, execution may be taken out only by the holder of the decree for the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

(2) This rule shall be deemed to apply where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

(3) This rule shall not de deemed to apply unless—

(a) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits ; and

(b) the sums due under the decrees are definite.

(4) The holder of a decree passed against several persons jointly and severally may treat it as a cross-decree in relation to a decree passed against him singly in favour of one or more of such persons.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this rule.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this rule.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B *cannot treat* C's decree as a cross-decree under this rule.

(d) A, B, C, D and E are jointly and severally liable for Rs. 1,000 under a decree obtained by F. A obtains a decree for Rs. 100 against F singly and applies for execution to the Court in which the joint-decree is being executed. F may treat his joint-decree as a cross-decree under this rule.

Execution in case of cross-claims under same decree.

19. Where application is made to a Court for the execution of a decree under which two parties are entitled to recover sums of money from each other, then,—

(a) if the two sums are equal, satisfaction for both shall be entered upon the decree ; and,

(b) if the two sums are unequal, execution may be taken out only by the party entitled to the larger sum and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered upon the decree.

Cross-decrees and cross-claims in mortgage suits.

20. The provisions contained in rules 18 and 19 shall apply to decrees for sale in enforcement of a mortgage or charge.

Simultaneous execution.

21. The Court may, in its discretion, refuse execution at the same time against the person and property of the judgment-debtor.

Notice to show cause against execution in certain cases.

22. (1) Where an application for execution is made—

(*a*) more than one year after the date of the decree, or

(*b*) against the legal representative of a party to the decree,

the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him :

Provided that no such notice shall be necessary in consequence of more than one year having elapsed between the date of the decree and the application for execution [illegible] within one year from th[illegible] party against whom ex[illegible] y previous applica- ti[illegible] of the application being made against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person the Court has ordered execution to issue against him.

(2) Nothing in the foregoing sub-rule shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice.

Procedure after issue of notice

23. (*1*) Where the person to whom notice is issued under the last preceding rule does not appear or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

(2) Where such person offers any objection to the execution of the decree, the Court shall consider such objection and make such order as it thinks fit.

Process for execution.

24. (*1*) When the preliminary measures (if any) requir
Process for execution
by the foregoing rules have been take the Court shall, unless it sees cause to the contrary, iss its process for the execution of the decree.

(*2*) Every such process shall bear date the day which it is issued, ... such officer as the ... shall be sealed wit ... to the proper officer to be executed.

(*3*) In every such process a day shall be specified o or before which it shall be executed.

25. (*1*) The officer entrusted with the execution
Endorsement on process.
the process shall endorse thereon th day on, and the manner in, which was executed, and, if the latest day specified in the pro cess for the return thereof has been exceeded, the reason of the delay, or, if it was not executed, the reason why was not executed, and shall return the process with suc ...

... is to the effect that suc process, the Court shal examine him touching his alleged inability, and may, i it thinks fit, summon and examine witnesses as to such in ability and shall record the result.

Stay of execution.

26. (*1*) The Court to which a decree has been sen
When Court may stay execution
for execution shall, upon sufficient cause being shown, stay the executio of such decree for a reasonable time, to enable the judg ment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by

ich Court of first instance or appellate Court if execution ıd been issued thereby, or if application for execution had een made thereto.

(2) Where the property or person of the judgment-btor has been seized under an execution, the Court hich issued the execution may order the restitution of ich property or the discharge of such person pending ie result of the application.

Power to require se-ity from, or impose iditions upon, judg-nt-debtor.

(3) Before making an order to stay execution or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-ebtor as it thinks fit.

Liability of judgment-btor discharged.

27. No order of restitution or discharge under rule 26 shall prevent the property or person of a judgment-debtor from being re-ıken in execution of the decree sent for execution.

Order of Court which ssed decree or of appel-te Court to be binding on Court applied to.

28. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent or execution.

Stay of execution pend-ig suit between decree-older and judgment-ebtor.

29. Where a suit is pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may, on such terms as to security or otherwise, as it thinks fit, stay execution of the decree until the pending suit has been decided.

Mode of execution.

Decree for payment of money.

30. Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief,

may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

31. (*1*) Where the decree is for any specific moveable, or for any share in a specific moveable, it may be executed by the seizure if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.

Decree for specific moveable property.

(*2*) Where any attachment under sub-rule (*1*) has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed by the decree to be paid as an alternative to delivery of moveable property, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(*3*) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

32. (*1*) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be en-

Decree for specific performance for restitution of conjugal rights, or for an injunction.

forced by his detention in the civil prison, or by the attachment of his property, or by both.

(2) Where the party against whom a decree for specific performance or for an injunction has been passed is a corporation, the decree may be enforced by the attachment of the property of the corporation or, with the leave of the Court, by the detention in the civil prison of the directors or other principal officers thereof, or by both attachment and detention.

(3) Where any attachment under sub-rule (1) or sub-rule (2) has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(4) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of one year from the date of the attachment, no application to have the property sold has been made, or if made has been refused, the attachment shall cease.

(5) Where a decree for the specific performance of a contract or for an injunction has not been obeyed, the Court may, in lieu of or in addition to all or any of the processes aforesaid, direct that the act required to be done may be done so far as practicable by the decree-holder or some other person appointed by the Court, at the cost of the judgment-debtor and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and may be recovered as if they were included in the decree.

Illustration.

A, a person of little substance, erects a building which renders uninhabitable a family mansion, belonging to B A;

may be executed by the detention in the civil prison of the judgment-debtor or by the attachment and sale of his property, or by both.

Decree for specific moveable property.

31. (*1*) Where the decree is for any specific moveable, or for any share in a specific moveable, it may be executed by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the detention in the civil prison of the judgment-debtor, or by the attachment of his property, or by both.

(*2*) Where any attachment under sub-rule (*1*) has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed by the decree to be paid as an alternative to delivery of moveable property, such amount, and, in other cases such compensation as it thinks fit, and shall pay the balance (if any) to the judgment-debtor on his application.

(*3*) Where the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or where, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease.

Decree for specific performance for restitution of conjugal rights, or for an injunction.

32 (*1*) Where the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for an injunction, has been passed, has had an opportunity of obeying the decree and has wilfully failed to obey it, the decree may be e

in spite of his detention in prison and the attachment of his property, declines to obey a decree obtained against him by B and directing him to remove the building. The Court is of opinion that no sum realizable by the sale of A's property would adequately compensate B for the depreciation in the value of his mansion. B may apply to the Court to remove the building and may recover the cost of such removal from A in the execution-proceedings.

33. *(1)* Notwithstanding anything in rule 32, the Court, either at the time of passing a decree for the restitution of conjugal rights or at any time afterwards, may order that the decree shall not be executed by detention in prison.

Discretion of Court in executing decree for restitution of conjugal rights

(2) Where the Court has made an order under sub-rule *(1)*, and the decree-holder is the wife, it may order that in the event of the decree not being obeyed within such period as may be fixed in this behalf, the judgment-debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments.

(3) The Court may from time to time vary or modify any order made under sub-rule *(2)* for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revise the same, either wholly or in part as it ma[illegible]k just.

(4) Any money ordered to [illegible] er this rule may be recovered [illegible] h it w[illegible] er a decree for the payment [illegible]

34. *(1)* Wher[illegible] is [illegible] of a [illegible] of a [illegible] stru[illegible] ts o[illegible]

Decree for execution of document, or endorsement of negotiable instrument, etc.

in spite of his detention in prison and the attachment his property, declines to obey a decree obtained agai him by B and directing him to remove the building. T Court is of opinion that no sum realizable by the sale A's property would adequately compensate B for the preciation in the value of his mansion. B may apply the Court to remove the building and may recover t cost of such removal from A in the execution-procee ings.

Discretion of Court in executing decrees for restitution of conjugal rights.

33. (1) Notwithstanding anything in rule 32, t Court, either at the time of passing decree *for the restitution* of conju rights or at any time afterwards, m order that the decree shall not be executed by dete tion in prison.

(2) Where the Court has made an order under su rule (1), and the decree-holder is the wife, it may or that in the event of the decree not being obeyed wit such period as may be fixed in this behalf, the judgmen debtor shall make to the decree-holder such periodical payments as may be just, and, if it thinks fit, require that the judgment-debtor shall, to its satisfaction, secure to the decree-holder such periodical payments.

(3) The Court may from time to time vary or modify any order made under sub-rule (2) for the periodical pay ment of money, either by altering the times of payment or by increasing or diminishing the amount, or may tem porarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same, either wholly or in part as it may think just.

(4) Any money ordered to be paid under this rule may be recovered as though it were payable under a decree for the payment of money.

Decree for execution of document, or endorsement of negotiable instrument.

34. (1) Where a decree is for the execution of a document or for the endorsement of a negotiable instrument and the judgment debtor neglects or refuses to obey the

if necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of immoveable property such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building or enclosure is to be delivered and the *person in possession*, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

Decree for delivery of immoveable property when in occupancy of tenant

36. Where a decree is for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of *the warrant* in some conspicuous place on the property, and ... custo... drum or other ... of th... he substance

Arrest and detention in the civil prison.

37. (1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is ... be arrested in pursuance of the application, the ... may, instead of issuing a warrant for his arrest

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or do any other act necessary for putting the
holder in possession.

Decree for delivery of immoveable property when in occupancy of tenant

36. Where a decree is for the delivery of an moveable property in the occupan a tenant or other person entitl occupy the same and not bound b decree to relinquish such occupancy Court shall order delivery to be made by affixing a co the warrant in some conspicuous place on the prop and proclaiming to the occupant by beat of drum or customary mode, at some convenient place, the subst of the decree in regard to the property.

Arrest and detention in the civil prison.

37. (1) Notwithstanding anything in these ru
where an application is for the execu
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Decree for [...] of document [...]dorsement o[...] [...]ble instrument
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Court cause to the quires, sue a warrant for the arrest of the judgment-debtor.

38. Every warrant for the arrest of a judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs (if any) to which he is liable, be sooner paid.

Warrant for arrest to direct judgment-debtor to be brought up.

39. (1) No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as the Judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the Court.

Subsistence allowance

(2) Where a judgment-debtor is committed to the civil prison in execution of a decree the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales fixed under section 57 or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

(3) The monthly allowance fixed by the Court shall be supplied by the party on whose application the judgment-debtor has been arrested by monthly payments in advance before the first day of each month.

(4) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to the civil prison, and the subsequent payments (if any) shall be made to the officer in charge of the civil prison.

if necessary, by removing any person bound by the de who refuses to vacate the property.

(2) Where a decree is for the joint possession of moveable property such possession shall be delivered affixing a copy of the warrant in some conspicu place on the property and proclaiming by beat of dr or other customary mode, at some convenient place, substance of the decree.

(3) Where possession of any building or enclosure to be delivered and the person in possession, being bou by the decree, does not afford free access, the Cour through its officers, may, after giving reasonable warnin and facility to any woman not appearing in publ according to the customs of the country to withdraw remove or open any lock or bolt or break open any do or do any other act necessary for putting the decree holder in possession.

Decree for delivery of immoveable property when in occupancy of tenant

36. Where a decree is for the delivery of any im- moveable property in the occupancy of a tenant or other person entitled t

Court shall order

the warrant in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substanc of the decree in regard to the property.

Arrest and detention in the civil prison.

37. (1) Notwithstanding anything in these rules where an application is for the executio of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is ... be arrested in pursuance of the application, the ...ay, instead of issuing a warrant for his arre

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34. (...
Decree for ... of document ... dorsement o... ... able instrument

(c) any undue preference given by the judgment-debtor to any of his other creditors ;

(d) refusal or neglect on the part of the judgment-debtor to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had, the means of paying it ;

(e) the likelihood of the judgment-debtor absconding or leaving the jurisdiction of the Court with the object or effect of obstructing or delaying the decree-holder in the execution of the decree.

(3) While any of the matters mentioned in sub-rule) are being considered, the Court may, in its discretion, [illegible] the civil

[illegible]

y the Court.

(4) A judgment-debtor released under this rule may be e-arrested.

(5) Where the Court does not make an order under ub-rule (1), it shall cause the judgment-debtor to be rrested if he has not already been arrested and, subject o the other provisions of this Code, commit him to the ivil prison.

Attachment of property.

Examination of judgment-debtor as to his property.

41. Where a decree is for the payment of money the decree-holder may apply to the Court for an order that—

(a) the judgment-debtor, or

(b) in the case of a corporation, any officer thereof, or,

(c) any other person,

be orally examined as to whether any or what debts a owing to the judgment-debtor and whether the judgme debtor has any and what other property or means satisfying the decree ; and the Court may make an ord for the attendance and examination of such judgme debtor, or officer or other person, and for the producti of any books or documents.

Attachment in case of decree for rent or mesne profits or other matter amount of which to be subsequent ly determined

42. Where a decree directs an inquiry as to re or mesne profits or any other matter, tl property of the judgment-debto may, before the amount due from hi has been ascertained, be attached, as i the case of an ordinary decree for the payment of money

Attachment able propert than agricult duce, in po judgment-debtor

43. ...

seizure, and the attaching officer shal keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof.

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

Attachment of agricultural produce

44. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment—

(a) where such produce is a growing crop, on the land on which such crop has grown, or

(b) ... here ... ading ... or in which it is deposited,

and another copy on the outer door or on some other

house in which he carries on business or personally works for gain or in which he is known to have last resided or carried on business or personally worked for gain and the produce shall thereupon be deemed to have passed into the possession of the Court.

Provisions as to agricultural produce under attachment.

45. (1) Where agricultural produce is attached, the Court shall make such arrangements for the custody thereof as it may deem sufficient and, for the purpose of enabling the Court to make such arrangements, every application for the attachment of a growing crop shall specify the time at which it is likely to be fit to be cut or gathered.

(2) Subject to such conditions as may be imposed by the Court in this behalf either in the order of attachment or in any subsequent order, the judgment-debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and if the judgment-debtor fails to do all or any of such acts, the decree-holder may, with the permission of the Court and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the decree-holder shall be recoverable from the judgment-debtor as if they were included in, or formed part of, the decree.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Court may suspend the execution of the order for such time as it

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind the Government or the railway company or local authority, as the case may be, [illegible] judgment-debtor is within [illegible] Code for the time being [illegible] those limits if he is in receipt of any salary or allowances payable out of His Majesty's Indian revenues or the funds of a railway company carrying on business in any part of British India or local authority in British India; and the Government or the railway company or local authority, as the case may be, shall be liable for any sum paid in contravention of this rule.

Attachment of partnership property

49. (1) Save as otherwise provided by this rule, property belonging to a partnership shall not be attached or sold in execution of a decree other than a decree passed against the firm or against the partners in the firm as such.

(2) The Court may, on the application of the holder of a decree against a partner, make an order charging the interest of such partner in the partnership property and profits with payment of the amount due under the decree, and may, by the same or a subsequent order, appoint a receiver of the share of such partner in the profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or other orders as might have been directed or made if a charge had been made in favour of the decree-holder by such partner, or, as the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

(4) Every application for an order under sub-rule (2) shall be served on the judgment-debtor and on his partners or such of them as are within British India.

.y partner of the be served on the tor, and on such n the application and

sub-rule (5) shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served.

50. (1) Where a decree has been passed against a firm, execution may be granted—

Execution of decree against firm.

(a) against any property of the partnership;
(b) against any person who has appeared in his own name under rule 6 or rule 7 of Order XXX or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner;
(c) against any person who has been individually served as a partner with a summons and has

med to 247 of the

(2) tled to cause other than such a person as is referred to in sub-rule (1) clauses (b) and (c), as being a partner in the firm, he may apply to the Court which passed the decree for leave, and where the liability is not disputed, such Court may grant such leave, or, where such liability is disputed, may order that the liability of such person be tried and determined in any manner in which any issue in a suit may be tried and determined.

(3) Where the liability of any person has been tried and determined under sub-rule (2), the order made there-

by the decree attached; and no payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof either through the Court or otherwise, shall be recognized by any Court so long as the attachment remains in force

Attachment of immoveable property.

54. (1) Where the property is immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or changing the property in any way, and all persons from taking any benefit from such transfer or charge.

(2) The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the court-house, and also, where the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate.

Removal of attachment after satisfaction of decree

55. Where—

(a) the amount decreed with costs and all charges and expenses resulting from the attachment of any property are paid into Court, or

(b) satisfaction of the decree is otherwise made through the Court or certified to the Court or

(c) the decree is set aside or reversed,

the attachment shall be deemed to be withdrawn, and in the case of immoveable property, the withdrawal shall if the judgment-debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by the last preceding rule.

56. Where the property attached is current coin or currency notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Order for payment of coin or currency notes to party entitled under decree.

57. Where any property has been attached in execution of a decree but by reason of the decree-holder's default the Court is unable to proceed [illegible] tion, it shall eithe[illegible] sufficient reason ad[illegible] Upon the dismissal of such application the attachment shall cease.

Determination of attachment.

Investigation of claims and objections.

58. (*1*) Where any claim is preferred to, or any objection is made to the attachment of, any property attached in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was party to the suit :

Investigation of claims to, and objections to attachment of, attached property.

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Postponement of sale.

59. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

Evidence to be adduced by claimant.

60. Where upon the said investigation *the* Court is satisfied that for the reason stated in the claim or objection such property was not, when attached, in the possession of the *judgment-debtor* or of some person in trust for him, or in the occupancy of a tenant or other person paying rent *to him*, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall make an order releasing the property, wholly or to such extent as it thinks fit, from attachment.

Release of property from attachment

61. Where the Court is satisfied that the property was, at the time it was attached, in the possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

Disallowance of claim to property attached

62. Where the Court is satisfied that the property is subject to a mortgage or charge in favour of some person not in possession, and thinks fit to continue the attachment, it may *do so*, subject to such *mortgage* or charge.

Continuance of attachment subject to claim of incumbrancer

63. Where a claim or an objection is preferred, the party against whom an order is made may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

Saving of suits to establish right to attached property

Sale generally.

64. Any Court executing a decree may order that any property attached by it and liable to sale, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Power to order property attached to be sold and proceeds to be paid to person entitled.

65. Save as otherwise prescribed, every sale in execution of a decree shall be conducted by an officer of the Court or by such other person as the Court may appoint in this behalf, and shall be made by public auction in manner prescribed.

Sales by whom conducted and how made.

66. (*1*) Where any property is ordered to be sold by public auction in execution of a decree the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

Proclamation of sales by public auction.

(*2*) Such proclamation shall be drawn up after notice to the decree-holder and the judgment-debtor and shall state the time and place of sale, and specify as fairly and accurately as possible—

(*a*) the property to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, where the property to be sold is an interest in an estate, or in part of an estate paying revenue to the Government;

(*c*) any incumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered;

(*e*) every other thing which the Court considers material for a purchaser to know in order to judge of the nature and value of the property.

(3) Every application for an order for sale under this rule shall be accompanied by a statement signed and verified in the manner hereinbefore prescribed for the signing and verification of pleadings and containing, so far as they are known to or can be ascertained by the person making the verification, the matters required by sub-rule (2) to be specified in the proclamation.

(4) For the purpose of ascertaining the matters to be specified in the proclamation, the Court may summon any person whom it thinks necessary to summon and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto.

Mode of making proclamation

67. (1) Every proclamation shall be made and published, as nearly as may be, in the manner prescribed by rule 54, sub-rule (2).

(2) Where the Court so directs, such proclamation shall also be published in the local official Gazette or in a local newspaper, or in both, and the costs of such publication shall be deemed to be costs of the sale.

(3) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Court, otherwise be given.

Time of sale.

68. Save in the case of property of the kind described in the proviso to rule 43, no sale hereunder shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the copy of the proclamation has been affixed on the court-house of the Judge ordering the sale.

69. (1) The Court may, in its discretion, adjourn any sale hereunder to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment:

Adjournment or stoppage of sale.

Provided that, where the sale is made in, or within the precincts of, the court-house, no such adjournment shall be made without the leave of the Court.

(2) Where a sale is adjourned under sub-rule (1) for a longer period than seven days, a fresh proclamation under rule 67 shall be made, unless the judgment-debtor consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court which ordered the sale.

70. Nothing in rules 66 to 69 shall be deemed to apply to any case in which the execution of a decree has been transferred to the Collector.

Saving of certain sales.

71. Any deficiency of price which may happen on a re-sale by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court or to the Collector or subordinate of the Collector, as the case may be, by the officer or other person holding the sale, and shall, at the instance of either the decree-holder or the judgment-debtor, be recoverable from the defaulting purchaser under the provisions relating to the execution of a decree for the payment of money.

Defaulting purchaser answerable for loss on re-sale.

72. (1) No holder of a decree in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.

Decree-holder not to bid for or buy property without permission.

any lot, the bidding shall be deemed to be the bidding of the co-owner.

78. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Irregularity not to vitiate sale, but any person injured may sue.

79. (1) Where the property sold is moveable property of which actual seizure has been made, it shall be delivered to the purchaser.

Delivery of moveable property, debts and shares

(2) Where the property sold is moveable property in the possession of some person other than the judgment-debtor, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

(3) Where the property sold is a debt not secured by a negotiable instrument, or is a share in a corporation, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser.

80. (1) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share, the Judge or such officer as he may appoint in this behalf may execute such

Transfer of negotiable instruments and shares.

document or make such endorsement as may be necessary, and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(2) Such execution or endorsement may be in the following form, namely :—

A. B. by C. D., Judge of the Court of (or as the case may be), in a suit by E. F. against A. B.

(3) Until the transfer of such negotiable instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

Vesting order in case of other property

81. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

Sale of immoveable property.

What Courts may order sales.

82. Sales of immoveable property in execution of decrees may be ordered by any Court other than a Court of Small Causes.

Postponement of sale to enable judgment-debtor to raise amount of decree.

83. (1) Where an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may, on his application, postpone the sale of the property comprised in the order for sale on such terms and for such period as it thinks proper, to enable him to raise the amount.

(2) In such case the Court shall grant a certificate to the judgment-debtor authorizing him within a period to be mentioned therein, and notwithstanding anything

contained in section 64, to make the proposed mortgage, lease or sale:

Provided that all monies payable under such mortgage lease or sale shall be paid, not to the judgment-debtor but, save in so far as a decree-holder is entitled to set o such money under the provisions of rule 72, into Court.

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Court

(3) Nothing in this rule shall be deemed to apply t a sale of property directed to be sold in execution of a decree for sale in enforcement of a mortgage of, or charge on, such property.

Deposit by purchaser and re-sale on default

84. (1) On every sale of immoveable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per cent. on the amount of his purchase-money to the officer or other person conducting the sale, and, in default of such deposit, the property shall forthwith be re-sold.

(2) Where the decree-holder is the purchaser and is entitled to set off the purchase-money under rule 72, the Court may dispense with the requirements of this rule.

Time for payment in full of purchase-money

85. The full amount of purchase-money payable shall be paid by the purchaser into Court before the Court closes on the fifteenth day from the sale of the property.

Provided that, in calculating the amount to be so paid into Court, the purchaser shall have the advantage of any set-off to which he may be entitled under rule 72.

[illegible]

86. In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold and the defaulting purchaser shall forfeit all claim to the property

or to any part of the sum for which it may subsequently be sold.

87. Every re-sale of immoveable property, in default of payment of the purchase-money within the period allowed for such payment shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

Notification on re-sale.

88. Where the property sold is a share of undivided immoveable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Bid of co-sharer to have preference.

89. (1) Where immoveable property has been sold in execution of a decree, any person, either owning such property or holding an interest therein by virtue of a title acquired before such sale, may apply to have the sale set aside on his depositing in Court,—

Application to set aside sale on deposit.

(a) for payment to the purchaser, a sum equal to five per cent. of the purchase-money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

[illegible] rule 90 to set aside [illegible] shall not, unless [illegible] itled to make or [illegible]

(3) Nothing in this rule shall relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.

90. (1) Where any immoveable property has b... sold in execution of a decree, the dec... holder, or any person entitled to sh... in a rateable distribution of assets, whose interests are affected by the sale, may apply to Court to set aside the s... irregularity or fraud in

Application to set aside sale on ground of irregularity or fraud

Provided that no sale ... of irregularity or fraud unless upon the facts proved Court is satisfied that the applicant has sustained substan... injury by reason of such irregularity or fraud.

91. The purchaser at any such sale in execution o... decree may apply to the Court to ... aside the sale, on the ground that t... judgment-debtor had no saleable inter...

Application by purchaser to set aside sale on ground of judgment-debtor having no saleable interest.

92 (1) ...

Sale when to become absolute or be set as...

shall make an order confirming the sale, and thereup... the sale shall become absolute.

(2) Where such application is made and allowed, a... where, in the case of an application under rule 89, t... deposit required by that rule is made within thirty da... from the date of sale, the Court shall make an ord... setting aside the sale :

Provided that no order shall be made unless notice ... the application has been given to all persons affect... thereby.

(3) No suit to set aside an order made under this ru... shall be brought by any person against whom such ord... is made.

93 Where a sale of immoveable property is set as... under rule 92, the purchaser shall ... entitled to an order for repayment of h... purchase money, with or without interest as the Co... may direct, against any person to whom it has been pai...

Return of purchase money in certain cases

94. Where a sale of immoveable property has become absolute, the Court shall grant a certificate specifying the property sold and the name of the person who at the time [of] sale is declared to be the purchaser. Such certificate [s]hall bear date the day on which the sale became [a]bsolute.

Certificate to purchaser

95. Where the immoveable property sold is in the occupancy of the judgment-debtor or of some person on his behalf or of some person claiming under a title created by

Delivery of property [i]n occupancy of judgment-debtor.

[illegible]

[o]f the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

96. Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 94, the Court shall on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Delivery of property in occupancy of tenant

Resistance to delivery of possession to decree-holder or purchaser.

97. (1) Where the holder of a decree for the possession of immoveable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the

Resistance or obstruction to possession of immoveable property

t shall direct that the applicant be put into possession of the property.

Rules not applicable to transferee lite pendente.

102. Nothing in rules 99 and 101 shall apply to resistance or obstruction in execution of a decree for the possession of immoveable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.

Orders conclusive subject to regular suit.

103. Any party not being a judgment-debtor against whom an order is made under rule 98, rule 99 or rule 101 may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be conclusive.

ORDER XXII.

Death, Marriage and Insolvency of Parties.

No abatement by party's death, if right to sue survives.

1. The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives.

Procedure where one of several plaintiffs or defendants dies and right to sue survives.

2. Where there are more plaintiffs or defendants than one, and any of them dies, and where the right to sue survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed

[illegible]

Procedure in case of death of one of several plaintiffs or of sole plaintiff.

[illegible] right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff

have the same force and effect as if it had been pronounced before the death took place.

Suit not abated by marriage of female party.

7. (*1*) The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may be executed against her alone.

(2) Where the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with such permission, be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

When plaintiff's insolvency bars suit.

8. (*1*) The insolvency of a plaintiff in any suit which the assignee or receiver might maintain for the benefit of his creditors, shall not cause the suit to abate, unless such assignee or receiver declines to continue the suit or (unless for any special reason the Court otherwise directs) to give security for the costs thereof within such time as the Court may direct.

Procedure where assignee fails to continue suit or give security

(2) Where the assignee or receiver neglects or refuses to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's insolvency, and the Court may make an order dismissing the suit and awarding to the defendant the costs which he has incurred in defending the same to be proved as a debt against the plaintiff's estate.

Effect of abatement or dismissal.

9 (*1*) Where a suit abates or is dismissed under this Order, no fresh suit shall be brought on the same cause of action.

(2) Where the Court is satisfied—

(a) that a suit must fail by reason of some formal defect, or

(b) that there are other sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or abandon such part of a claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of a claim.

(3) Where the plaintiff withdraws from a suit, or abandons part of a claim, without the permission referred to in sub-rule (2), he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.

(4) Nothing in this rule shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

Limitation law not affected by first suit.

2. In any fresh suit instituted on permission granted under the last preceding rule, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been instituted.

Compromise of suit.

3. Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of [illegible] . compro- [illegible] ...s a decree [illegible] so far as it relates to the suit.

Proceedings in execution of decree not affected.

4. Nothing in this Order shall apply to any proceedings in execution of a decree or order.

ORDER XXIV.

Payment into Court.

Deposit by defendant of amount in satisfaction of claim.

1. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

2. Notice of the deposit shall be given through the Court by the defendant to the plaintiff, ... deposit shall (un- ... to the plaintiff on ...

Interest on deposit not allowed to plaintiff after notice.

3. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited is in full of the claim or falls short thereof.

Procedure ... plaintiff ... sit as ... part.

4. (1) Where the plaintiff accepts such amount as ... laim he ... sit by ... claim, ... after the deposit and the costs incurred previous ... so far as they were caused by excess in the plaintiff's claim.

Procedure where he accepts it as satisfaction in full.

(2) Where the plaintiff accepts such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and ... ment, accordingly; and, ... each party are to be p... ich of the parties is mos...

Illustrations.

(*a*) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*) On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suits, A's conduct having shown that the litigation was necessary.

(*c*) A owes B Rs. 100, and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

When security for costs may be required from plaintiff.

1. (*1*) [illegible] pears to the [illegible] or (when [illegible] one) that [illegible] British [illegible] one of [illegible] -able property within British India other than the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time fixed by it, to give security

for the payment of all costs incurred and likely to be incurred by any defendant.

Residence out of British India.

(2) Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India within the meaning of sub-rule (1).

(3) On the application of any defendant in a suit for the payment of money, in which the plaintiff is a wo- [illegible] suit make a like [illegible] does not possess [illegible] n British India.

Effect of failure to furnish security

2. (1) In the event of such security not being furnished within the time fixed, the Court shall make an order dismissing the suit unless the plaintiff or plaintiffs are permitted to withdraw *therefrom.*

(2) Where a suit is dismissed under this rule, the plaintiff may apply for an order to set the dismissal aside, and if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit

(3) The dismissal shall not be set aside unless notice of such application has been served on the defendant.

ORDER XXVI.

Commissions.

Commissions to examine witnesses..

Cases in which Court may issue commission to examine witness.

1. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of any person resident within the local limits of its jurisdiction who is

exempted under this Code from attending the Court or who is from sickness or infirmity unable to attend it.

Order for commission.

2. An order for the issue of a commission for the examination of a witness may be made by the Court either of its own motion or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

Where witness resides within Court's jurisdiction.

3. A commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute.

Persons for whose examination commission may issue

4. (*1*) Any Court may in any suit issue a commission for the examination of—

(*a*) any person resident beyond the local limits of its *jurisdiction* :

(*b*) any person who is about to leave such limits before the date on which he is required to be examined in Court ; and

(*c*) any civil or military officer of the Government who cannot, in the opinion of the Court, attend without detriment to the public service.

(*2*) Such commission may be issued to any Court, not being a High Court, within the local limits of whose jurisdiction such person resides, or to any pleader or other person whom the Court issuing the commission may appoint.

(*3*) The Court on issuing any commission under this rule shall direct whether the commission shall be returned to itself or to any subordinate Court.

Commission or Request to examine witness not within British India.

5. Where any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied

that the evidence of such person is necessary, the Court may issue such commission or a letter of request.

Court to examine witness pursuant to commission

6. Every Court receiving a commission for the examination of any person shall examine him or cause him to be examined pursuant thereto.

Return of commission, with depositions of witnesses.

7. Where a commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court from which it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto and the evidence taken under it shall (subject to the provisions of the next following rule) form part of the record of the suit.

When depositions may be read in evidence.

8. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless—

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or is a civil or military officer of the Government who cannot, in the opinion of the Court, attend without detriment to the pulic service, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in clause (a), and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Commissions for local investigations.

9. In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court:

Commissions to make local investigations.

Provided that, where the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

10. (1) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

Procedure of Commissioner.

(2) The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any [illegible] ed to him or men- [illegible] or as to the manner [illegible]

Report and depositions to be evidence in suit.

Commissioner may be [illegible]

(3) Where the Court is for any reason dissatisfied with the proceedings of the Commissioner, it may direct such further inquiry to be made as it shall think fit.

Commissions to examine accounts.

11. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person

Commission to examine or adjust accounts.

as it thinks fit directing him to make such examination or adjustment.

12. (1) The Court shall furnish the Commissioner with such part of the proceedings and such instructions as appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

Court to give Commissioner necessary instructions.

(2) The proceedings and report (if any) of the Commissioner shall be evidence in the suit, but where the Court has reason to be dissatisfied with them, it may direct such further inquiry as it shall think fit.

Proceedings and report to be evidence. Court may direct further inquiry.

Commissions to make partitions.

13. Where a preliminary decree for partition has been passed, the Court may, in any case not provided for by section 54, issue a commission to such person as it thinks fit to make the partition or separation according to the rights as declared in such decree.

Commission to make partition of immoveable property.

14. (1) The Commissioner shall, after such inquiry as may be necessary, divide the property into as many shares as may be directed by the order under which the commission was issued, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

Procedure of Commissioner.

(2) The Commissioner shall then prepare and sign a report or the Commissioners (where the commission was issued to more than one person and they cannot agree) shall prepare and sign separate reports appointing the share of each party and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or

eports shall be annexed to the commission and transmitt-d to the Court; and the Court, after hearing any objec-ions which the parties may make to the report or reports, hall confirm, vary or set aside the same.

(3) Where the Court confirms or varies the report or reports it shall pass a decree in accordance with the same as confirmed or varied; but where the Court sets aside he report or reports it shall either issue a new commission or make such other order as it shall think fit.

General provisions.

Expenses of commission to be paid into Court

15. Before issuing any commission under this Order, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed, paid into Court by the party at whose instance or for whose benefit the commission is issued.

Powers of Commissioners.

16. Any Commissioner appointed under this Order may, unless otherwise directed by the order of appointment—

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance and examination of witnesses before Commissioners.

17. (1) The [illegible] and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Order whether the commission in execution of which they are

3. In suits by or against the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of residence of the plaintiff or defendant, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Plaints in suits by or against Government.

4. The Government pleader in any Court, or such other person as the Local Government may for any Court appoint in this behalf, shall be the agent of the Government for the purpose of receiving processes against the Secretary of State for India in Council issued by such Court.

Agent for Government to receive process.

5. The Court, in fixing the day for the Secretary of State for India in Council to answer to the plaint shall allow a reasonable time for the necessary communication with the Government through the proper channel, and for the issue of instructions to the Government pleader to appear and answer on behalf of the said Secretary of State for India in Council or the Government, and may extend the time at its discretion.

Fixing of day for appearance on behalf of Government.

6. The Court may also, in any case in which the Government pleader is not accompanied by any person on the part of the Secretary of State for India in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

Attendance of person able to answer questions relating to suit against Government.

7. Where the defendant is a public officer and, on receiving the summons, considers it proper to make a reference to the Government before answering the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel.

Extension of time to enable public officer to make reference to Government.

(3) When so filed the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation—In this Order the expression "command- [illegible] command for the [illegible] etachment of depôt [illegible] belongs.

Person so authorized may act personally or appoint pleader

2. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present: or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

Service on person so authorized, or on his pleader, to be good service

3. Processes served upon any person authorized by an officer or a soldier under rule 1 or upon any pleader appointed as aforesaid by such person shall be as effectual as if they had been served on the party in person.

ORDER XXIX.

Suits by or against Corporations.

Subscription and verification of pleading.

1. In suits by or against a corporation, any pleading may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case.

Service on corporation.

2. Subject to any statutory provision regulating service of process, where the suit is against a corporation, the summons may be served—

(a) on the secretary, or on any director, or other principal officer of the corporation, or

rsons constituting the firm on whose behalf the suit is instituted.

(2) Where the plaintiffs or their pleader fail to comply with any demand made under sub-rule (1), all proceedings in the suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct.

(3) Where the names of the partners are declared in the manner referred to in sub-rule (1), the suit shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as plaintiffs in the plaint:

Provided that all the proceedings shall nevertheless continue in the name of the firm.

Service.

3. Where persons are sued as partners in the name of their firm, the summons shall be served either—

(a) upon any one or more of the partners, or

(b) at the principal place at which the partnership business is carried on within British India upon any person having, at the time of service, the control or management of the partnership business there,

as the Court may direct; and such service shall be deemed good service upon the firm so sued, whether all or any of the partners are within or without British India:

Provided that, in the case of a partnership which has been dissolved to the knowledge of the plaintiff before the institution of the suit, the summons shall be served upon every person within British India whom it is sought to make liable.

Right of suit on death of partner.

4. (1) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872, (IX of 1872), where two or more persons may sue or be sued in the name of a firm under the foregoing

provisions and any of such persons dies, whether before the institution or during the pendency of any suit, it shall not be necessary to join the legal representative of the deceased as a party to the suit.

(2) Nothing in sub-rule (*1*) shall limit or otherwise affect any right which the legal representative of the deceased may have—

(*a*) to apply to be made a party to the suit, or

(*b*) to enforce any claim against the survivor or survivors.

Notice in what capacity served.

5. Where a summons is issued to a firm and is served in the manner provided by rule 3, every person upon whom it is served shall be informed by notice in writing given at the time of such service, whether he is served as a partner or as a person having the control or management of the partnership business, or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner.

Appearance of partners

6. Where persons are sued as partners in the name of their firm, they shall appear individually in their own names, but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

No appearance except by partners

7. Where a summons is served in the manner provided by rule 3 upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is a partner of the firm sued.

Appearance under protest.

8. Any person served with summons as a partner under rule 3 may appear under protest, denying that he is a partner, but such appearance shall not preclude the plaintiff from otherwise serving a summons on the firm and obtaining a decree against the firm in default of appearance where no partner has appeared.

9. This Order shall apply to suits between a firm and one or more of the partners therein and to suits between firms having one or more partners in common; but no execution shall be issued in such suits except by leave of the Court, and, on an application for leave to issue such execution, all such accounts and inquiries may be directed to be taken and made and directions given as may be just.

Suits between co-partners.

10. Any person carrying on business in a name or style other than his own name may be sued in such name or style as if it were a firm name; and, so far as the nature of the case will permit, all rules under this Order shall apply.

Suit against person carrying on business in name other than his own.

ORDER XXXI.

Suits by or against Trustees, Executors and Administrators.

1. In all suits concerning property vested in a trustee, executor or administrator, where the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made parties.

Representation of beneficiaries in suits concerning property vested in trustees, etc.

2. Where there are several trustees, executors or administrators, they shall all be made parties to a suit against one or more of them:

Joinder of trustees, executors and administrators.

Provided that the executors who have not proved their testator's will, and trustees, executors and administrators outside British India, need not be made parties.

3. Unless the Court directs otherwise, the husband of a married trustee, administratrix or executrix shall not as such be a party to a suit by or against her.

Husband of married executrix not to join.

(2) Every order made in a suit or on any application before the Court in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, where the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

Receipt by next friend or guardian for the suit of property under decree for minor

6. (1) A next friend or guardian for the suit shall not, without the leave of the Court receive any money or other moveable property on behalf of a minor either—

(a) by way of compromise before decree or order, or

(b) under a decree or order in favour of the minor.

(2) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application.

Agreement or compromise by next friend or guardian for the suit.

7. (1) No next friend or guardian for the suit shall without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the suit in which he acts as next friend or guardian.

(2) Any such agreement or compromise entered into without the leave of the Court so recorded shall be voidable against all parties other than the minor.

Retirement of next friend.

8. (1) Unless otherwise ordered by the Court a next friend shall not retire without first procuring a fit person to be put in his place and giving security for the costs already incurred.

(2) The application for the appointment of a new next end shall be supported by an affidavit showing the ness of the person proposed, and also that he has no terest adverse to that of the minor.

9. (1) Where the interest of the next friend of a
f the minor or
. with a defen-
minor as to
ill be properly
rotected by him, or where he does not do his duty, or, uring the pendency of the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal ; and the Court, if satisfied of the sufficiency of the cause assigned, may order the next friend to be removed accordingly, and make such other order as to costs as it thinks fit.

(2) Where the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an applic.
declared,
of the nex
unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor, and shall thereupon appoint the applicant to be next friend in his place upon such terms as to the costs already incurred in the suit as it thinks fit.

10. (1) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed unto the appointment of a next friend in his place.

Stay of proceedings on removal, etc., of next friend.

(2) Where the pleader of such minor omits, within a reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or in the matter in issue may apply to the Court for the appoint-

ment of one, and the Court may appoint such person as it thinks fit.

Retirement, removal or death of guardian for the suit.

11. (*1*) Where the guardian for the suit desires to retire or does not do his duty, or where other sufficient ground is made to appear, the Court may permit such guardian to retire or may remove him, and may make such order as to costs as it thinks fit.

(*2*) Where the guardian for the suit retires, dies or is removed by the Court during the pendency of the suit, the Court shall appoint a new guardian in his place.

Course to be followed by minor plaintiff or applicant on attaining majority

12. (*1*) A minor plaintiff or a minor not a party to a suit on whose behalf an application is pending shall, on attaining majority elect whether he will proceed with the suit or application.

(*2*) Where he elects to proceed with the suit or application, he shall apply for an order discharging the next friend and for leave to proceed in his own name.

(*3*) The title of the suit or application shall in such case be corrected so as to read thenceforth thus:—

"A. B., late a minor, by C. D., his next friend, but now having attained majority."

(*4*) Where he elects to abandon the suit or application, he shall, if a sole plaintiff or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or opposite party or which may have been paid by his next friend.

(*5*) Any application under this rule may be made *ex parte*: but no order discharging a next friend and permitting a minor plaintiff to proceed in his own name shall be made without notice to the next friend.

Where minor co-plaintiff attaining majority desires to repudiate suit.

13. (*1*) Where a minor co-plaintiff on attaining majority desires to repudiate the suit, he shall apply to have his name struck out as co-plaintiff; and the Court, if it finds

at he is not a necessary party, shall dismiss him from the it on such terms as to costs or otherwise as it thinks fit.

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all be

(4) Where the applicant is a necessary party to the iit, the Court may direct him to be made a defendant.

14. (1) A , if a sole

Unreasonable
improper suit.

stituted in dismissed n the ground that it was unreasonable or improper.

(2) Notice of the application shall be served on all the parties concerned; and the Court, upon being satisfied f such unreasonableness or impropriety, may grant the pplication and order the next friend to pay the costs of ll parties in respect of the application and of anything lone in the suit, or make such other order as it thinks fit.

Application of rules to persons of unsound mind

15. The provisions contained in rules 1 to 14, so far as they are applicable, shall extend to persons adjudged to be of unsound mind and to persons who though not so adjudged are found by the Court on inquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interests when suing or being sued.

16. Nothing in this Order shall apply to a Sovereign ...ing or being ...tate, or being ... Council or a ...t or in any other name, or shall be construed to affect or in any way derogate from the provision of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind.

ORDER XXXIII.

Suits by Paupers.

Suits may be instituted *in forma pauperis.*

1. Subject to the following provisions any suit may be instituted by a pauper.

no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing-apparel and the subject-matter of the suit.

Contents of application.

2. Every application for permission to sue as a pauper shall contain the particulars required in
, rega
any moveable or im
applicant, with the
annexed thereto ; and ...
manner prescribed for the signing and verification of pleadings.

Presentation of application.

3. Notwithstanding anything contained in these rules, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing
be presented
. . . material ques-
y be examined
in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of applicant.

4. (*1*) Where the application is in proper form and duly presented, the Court may, if it thinks fit, examine the applicant, or his agent, when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

(2) Where the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken.

If presented by agent, Court may order applicant to be examined by commission.

5. The Court shall reject an application for permission to sue as a pauper—

Rejection of application.

(a) where it is not framed and presented in the manner prescribed by rules 2 and 3, or

(b) where the applicant is not a pauper, or

(c) where he has, within two months next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to sue as a pauper, or

(d) where his allegations do not show a cause of action, or

(e) where he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter.

6. Where the Court sees no reason to reject the application on any of the grounds stated in rule 5, it shall fix a day (of which at least ten days' clear notice shall be given to the opposite party and the Government pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof.

Notice of day for receiving evidence of applicant's pauperism.

7. (1) On the day so fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

Procedure at hearing.

(2) The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in rule 5.

(3) The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

Procedure if application admitted

8. Where the application is granted, it shall be numbered and registered; and shall be deer [illegible] the suit and the suit shall proceed in al [illegible] the ordinary manner, [illegible] liable to pay any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader or other proceeding connected with the suit.

Dispaupering.

9. The Court may, on the application of the defendant, or of the Government pleader, of which seven days' clear notice in writing has been given to the plaintiff, order the plaintiff to dispaupered—

(a) if he is guilty of vexatious or improper conduct in the course of the suit;

(b) if it appears that his means are such that he ought not to continue to sue as a pauper; or

(c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

osts where pauper ...ceeds.

10. Where the plaintiff succeeds in the suit, the Court shall calculate the amount of court-fees which would have been paid ...y the plaintiff if he had not been permitted to sue as a ...uper; such amount shall be recoverable by the Govern-

ment from any party ordered by the decree to pay the same, and shall be a first charge on the subject-matter of the suit.

Procedure where pauper fails.

11. Where the plaintiff fails in the suit or is dispaupered, or where the suit is withdrawn or dismissed,—

(a) because the summons for the defendant to appear and answer has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee or postal charges (if any) chargeable for such service, or

(b) because the plaintiff does not appear when the suit is called on for hearing,

the Court shall order the plaintiff, or any person added as a co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper.

Government may apply for payment of court-fees.

12. The Government shall have the right at any time to apply the Court to make an order for the payment of court-fees under rule 10 or rule 11.

Government to be deemed a party.

13. All matters arising between the Government and any party to the suit under rule 10, rule 11 or rule 12 shall be deemed to be questions arising between the parties to the suit within the meaning of section 47.

Copy of decree to be sent to Collector.

14. Where an order is made under rule 10, rule 11 or rule 12, the Court shall forthwith cause a copy of the decree to be forwarded to the Collector.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

15. An order refusing to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to

ing his application for leave to sue as a pauper.

16. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism shall be costs in the suit.

Costs.

ORDER XXXIV.

Suits relating to Mortgages of Immoveable Property.

1. Subject to the provisions of this Code, all persons having an interest either in the mortgage-security or in the right of redemption shall be joined as parties to any suit relating to the mortgage.

Parties to suits for foreclosure, sale and redemption.

Explanation.—*A puisne mortgagee may sue for foreclosure or for sale without making the prior mortgagee a party to the suit; and a prior mortgagee need not be joined in a suit to redeem a subsequent mortgage.*

2. In a suit for foreclosure, if the plaintiff succeeds, the Court shall pass a decree—

Preliminary decree in foreclosure-suit.

(*a*) ordering that an account be taken of what will be due to the plaintiff for principal and interest on the mortgage, and for his costs of the suit (if any) awarded to him on the day next hereinafter referred to, or

(*b*) declaring the amount so due at the date of such decree;

and directing—

(*c*) that if the defendant pays into Court the amount so due on a day within six months from the date of declaring in Court the amount so due to be fixed by the Court, the plaintiff shall deliver up to the defendant, or to such person

as he appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the defendant free from the mortgage and from all incumbrances created by the plaintiff or any person claiming under him, or, where the plaintiff claims by derived title, by those under whom he claims, and shall also, if necessary, put the defendant in possession of the property, but

(d) that, if such payment is not made on or before the day to be fixed by the Court, the defendant shall be debarred from all right to redeem the property

Final decree in foreclosure suit.

3. (1) Where, on or before the day fixed, the defendant pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

(a) ordering the plaintiff to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up,

and, if so required,

(b) ordering him to retransfer the mortgaged property as directed in the said decree,

and, also, if necessary,

(c) ordering him to put the defendant in possession of the property.

(2) Where such payment is not so made, the Court shall, on application made in that behalf by the plaintiff, pass a decree that the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgaged property and also, if necessary, ordering the defendant to put the plaintiff in possession of the property;

Provided that the Court may, upon good cause shown and upon such terms (if any) as it thinks fit from time to time postpone the day fixed for such payment.

Power to enlarge time.

(3) On the passing of a decree under sub-rule (2) the debt secured by the mortgage shall be deemed to be discharged.

Discharge of debt.

4. (1) In a suit for sale, if the plaintiff succeeds the Court shall pass a [illegible] to the effect [illegible]

to receive the same.

(2) In a suit for foreclosure, if the plaintiff succeeds and the mortgage is not a mortgage by conditional sale, the Court may, at the instance of the plaintiff or of any person interested either in the mortgage-money or in the right of redemption, pass a like decree (in lieu of a decree for foreclosure) on such terms as it thinks fit including the deposit in Court of a reasonable sum, fixed by the Court, to meet the expenses of sale and to secure the performance of the terms

Power to decree sale in foreclosure-suit.

5. (1) Where on or before the day fixed the defendant pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

Final decree in suit for sale.

(a) ordering the plaintiff to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up,

and if so required,

(b) ordering him to retransfer the mortgaged property as directed in the said decree,

and also, if necessary,

(c) ordering him to put the defendant in possession of the property.

(2) Where such payment is not so made, the Court shall, on application made in that behalf by the plaintiff, pass a decree that the mortgaged property, or a sufficient part thereof, be sold, and that the proceeds of the sale be dealt with as is mentioned in rule 4.

Recovery of balance due on mortgage.

6. Where the net proceeds of any such sale are found to be insufficient to pay the amount due to the plaintiff, if the balance is legally recoverable from the defendant otherwise than out of the property sold, the Court may pass a decree for such amount.

Preliminary decree in redemption suit.

7. In a suit for redemption, if the plaintiff succeeds, the Court shall pass a decree—

(a) ordering that an account be taken of what will be due to the defendant for principal and interest on the mortgage, and for his costs of the suit (if any) awarded to him on the day next hereinafter referred to, or

(b) declaring the amount so due at the date of such decree,

and directing—

(c) that, if the plaintiff pays into Court the amount so due on a day within six months from the date of declaring in Court the amount so due, to be fixed by the Court, the defendant shall deliver up to the plaintiff, or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the plaintiff free from the mortgage

and from all incumbrances created by the defendant or any person claiming under him, or, where the defendant claims by derived title, by those under whom he claims, and shall, if necessary, put the plaintiff in possession of the property, but

(d) that, if such payment is not made on or before the day to be fixed by the Court, the plaintiff shall (unless the mortgage is simple or usufruc- [illegible] edeem [illegible] sale)

Final decree in redemption-suit

8. (1) Where, on or before the day fixed, the plaintiff pays into Court the amount declared due as aforesaid, together with such subsequent costs as are mentioned in rule 10, the Court shall pass a decree—

(a) ordering the defendant to deliver up the documents which under the terms of the preliminary decree he is bound to deliver up,

and, if so required,

(b) ordering him to retransfer the mortgaged property as directed in the said decree,

and, also, if necessary,

(c) ordering him to put the plaintiff in possession of the property.

(2) Wh [illegible] the [illegible]

a decree that the plaintiff and all persons claiming through or under him be debarred from all right to redeem the mortgaged property and also, if necessary, ordering the plaintiff to put the defendant in possession of the property.

(3) On the passing of a decree under sub-rule (2) the debt secured by the mortgage shall be deemed to be discharged.

(4) Where such payment is not so made, and the mortgage is not by conditional sale, the Court shall, on application made in that behalf by the defendant, pass a decree that the mortgaged property or a sufficient part thereof be sold and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into Court and applied in payment of what is found due to the defendant, and that the balance (if any) be paid to the plaintiff or other persons entitled to receive the same:

Power to enlarge time.

Provided that the Court may, upon good cause shown and upon such terms (if any) as it thinks fit, from time to time postpone the day fixed for payment.

Decree where nothing is found due or where mortgagee has been overpaid.

9. Notwithstanding anything hereinbefore contained, if it appears, upon taking the account referred to in rule 7, that nothing is due to the defendant or that he has been overpaid, the Court shall pass a decree directing the defendant, if so required, to re transfer the property and to pay to the plaintiff the amount which may be found due to him; and the plaintiff shall, if necessary, be put in possession of the mortgaged property.

Costs of mortgagee subsequent to decree.

10. In finally adjusting the amount to be paid to a mortgagee in case of a foreclosure or sale or redemption, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs add to the mortgage-money such costs of suit as have been properly incurred by him since the decree for foreclosure or sale or redemption up to the time of actual payment.

Right of mesne mortgagee to redeem and foreclosure.

11. Where property is mortgaged for successive debts to successive mortgagees, any mesne mortgagee may institute a suit to redeem the interests of the prior mort-

gagees and to foreclose the rights of those that are posterior to himself and of the mortgagor.

Sale of property subject to prior mortgage.

12. Where any property the sale of which is directed under this Order is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, direct that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

Application of proceeds.

13. (1) Such proceeds shall be brought into Court and applied as follows :—

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale ;

secondly, in payment of whatever is due to the prior mortgagee on account of the prior mortgage, and of costs, properly incurred in connection therewith ;

thirdly, in payment of all interest due on account of [illegible] eof the sale was [illegible] suit in which the [illegible] ;

fo[illegible] .l money due on account of that mortgage ; and

lastly, the residue (if any) shall be paid to the person proving himself to be interested in the property sold, or if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

(2) Nothing in this rule or in rule 12 shall be deemed to affect the powers conferred by section 57 of the Transfer of Property Act, 1882, IV of 1882.)

Suit for sale necessary for bringing mortgaged property to sale.

14. (1) Where a mortgagee has obtained a decree for the payment of money in satisfaction of a claim arising under the mortgage, he shall not be entitled to bring th

gage property to sale otherwise than by instituting a suit for sale in enforcement of the mortgage, and he may itute such suit notwithstanding anything contained in er II, rule 2.

(2) Nothing in sub-rule (1) shall apply to any terries to which the Transfer of Property Act, 1882, (IV of), has not been extended.

harges. 15. All the provisions contained in this Order as to the sale or redemption of mortgaged property shall, so far as may be, apply to property bject to a charge within the meaning of section 100 of Transfer of Property Act, 1882, (IV of 1882.)

ORDER XXXV.

Interpleader.

Plaint in interpleader. 1. In every suit of interpleader the plaint shall, in addition to the other statements necessary for plaints, state—

(a) that the plaintiff claims no interest in the subject-matter in dispute other than for charges or costs ;

(b) the claims made by the defendants severally ; and

(c) that there is no collusion between the plaintiff and any of the defendants.

Payment of thing claimed into Court. 2. Where the thing claimed is capable of being paid into Court or placed in the custody of the Court, the plaintiff may be required to so pay or place it before he can be entitled to any order in the suit.

Procedure where defendant is suing plaintiff. 3. Where any of the defendants in an interpleader-suit is actually suing the plaintiff in respect of the subject-matter of such suit, the Court in which the suit against the plaintiff is pending shall, on being informed by the Court in which the interpleader-suit has been instituted,

stay the proceedings as against him; and his costs in suit so stayed may be provided for in such suit; but if, in so far as, they are not provided for in that suit, may be added to his costs incurred in the interpleader-

Procedure at first hearing.

4. (1) At the first hearing the Co may—

(a) declare that the plaintiff is discharged from liability to the defendants in respect of thing claimed, award him his costs, and miss him from the suit; or

(b) if it thinks that justice or convenience so requi retain all parties until the final disposal of suit.

(2) Where the Court finds that the admissions of parties or other evidence enable it to do so, it may judicate the title to the thing claimed.

(3) Where the admissions of the parties do not enal the Court so to adjudicate, it may direct—

(a) that an issue or issues between the parties framed and tried, and

(b) that any claimant be made a plaintiff in lieu or in addition to the original plaintiff,

and shall proceed to try the suit in the ordinary manner.

Agents and tenants may not institute interpleader suits.

5. Nothing in this Order shall be deemed to enab agents to sue their principals, or tenan to sue their landlords, for the purpose compelling them to interplead with an persons other than persons making claim through suc principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. alleges that the jewels were wrongfully obtained from hi by A, and claims them from B. B cannot institute a interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent, then writes to C for the purpose of making the els a security for a debt due from himself to C. A rwards alleges that C's debt is satisfied, and C alleges contrary. Both claim the jewels from B. B may itute an interpleader-suit against A and C.

6. Where the suit is properly instituted the Court may provide for the costs of the original plaintiff by giving him a charge on the ig claimed or in some other effectual way.

rge for plaintiff's

ORDER XXXVI.

Special Case.

1. (1) Parties claiming to be interested in the decision of any question of fact or law may enter into an agreement in writing stati such question in the form of a case for the opinion of Court, and providing that, upon the finding of the urt with respect to such question,—

wer to state case, lourt's opinion

(a) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the parties to the other of them; or

(b) [illegible], specified [illegible] by one of [illegible]

(c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

(2) Every case stated under this rule shall be divided to consecutively numbered paragraphs, and shall conely state such facts and specify such documents as may necessary to enable the Court to decide the question ised thereby.

2. Where the agreement is for the delivery of any property, or for the doing or the refraining from doing, any particular act, the estimated value of the property

Where value of sub- [illegible]

to be delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and registered as suit.

3. (1) The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

(2) The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested as plaintiff or plaintiffs and the other or the others of them as defendant or defendants; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

4. Where the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court and shall be bound by the statements contained therein.

Hearing and disposal of case.

5. (1) The case shall be set down for hearing as a suit instituted in the ordinary manner, and the provisions of this Code shall apply to such suit so far as the same are applicable.

(2) Where the Court is satisfied, after examination of the parties, or after taking such evidence as it thinks fit,—

(a) that the agreement was duly executed by them,

(b) that they have a *bonâ fide* interest in the question stated therein, and

(c) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in a ordinary suit, and upon the judgment so pronounced a decree shall follow.

ORDER XXXVII.

Summary Procedure on Negotiable Instruments.

Application of Order.

1. This Order shall apply only to—

(a) the High Courts of Judicature at Fort William, Madras and Bombay;

(b) the Chief Court of Lower Burma;

(c) the Court of the Judicial Commissioner of Sind; and

(d) any other Court to which sections 532 to 537 of the Code of Civil Procedure, 1882, (XIV of 1882), have been already applied.

Institution of summary suits upon bills of exchange etc.

2. (1) All suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed; but the summons shall be in Form No. 4 in Appendix B or in such other form as may be from time to time prescribed.

(2) In any case in which the plaint and summons are in such forms, respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter provided so to appear and defend; and, in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted, and the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and such sum for costs as may be prescribed, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be executed forthwith.

Defendant showing defence on merits to have leave to appear.

3. (1) The Court shall, upon application by the defendant, give leave to appear and to defend the suit upon affidavits which disclose such facts as would make it in-

cumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application.

(2) Leave to defend may be given unconditionally or subject to such terms as to payment into Court, giving security, framing and recording issues or otherwise as the Court thinks fit.

Power to set aside decree.

4. After decree the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to the defendant to appear to the summons and to defend the suit, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill, etc. to be deposited with officer of Court.

5. In any proceeding under this Order the Court may order the bill, hundi or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Recovery of cost of noting non acceptance of dishonoured bill or note.

6. The hold of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under the order for the recovery of the amount of such bill or note.

Procedure in suits.

7. Save as provided by this Order, the procedure in suits hereunder shall be the same as the procedure in suits instituted in the ordinary manner.

ORDER XXXVIII.

Arrest and Attachment before Judgment.

Arrest before judgment.

Where defendant may be called upon to furnish security for appearance.

1. Where at any stage of a suit, other than a suit of the nature referred to in section 16, clauses (*a*) to (*d*), the Court is satisfied, by affidavit or otherwise,—

(*a*) that the defendant, with intent to delay the plaintiff, or to avoid any persons of the Court or to obstruct or delay the execution of any decree that may be passed against him,—

(*i*) has absconded or left the local limits of the jurisdiction of the Court, or

(*ii*) is about to abscond or leave the local limits of the jurisdiction of the Court, or

(*iii*) has disposed of or removed from the local limits of the jurisdiction of the Court his property or any part thereof, or

(*b*) that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

[illegible] defendant [illegible] e why he [illegible]

Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the warrant any sum specified in the warrant as sufficient to satisfy the plaintiff's claim; and such sum shall be held in deposit by the Court until the suit is disposed of or until the further order of the Court.

2. (1) Where the defendant fails to show such the Court shall order him either posit in Court money or other pr sufficient to answer the claim against him, or to f security for his appearance at any time when called while the suit is pending and until satisfaction c decree that may be passed against him in the su make such order as it thinks fit in regard to th which may have been paid by the defendant unde proviso to the last preceding rule.

Security.

(2) Every surety for the appearance of a defe shall bind himself, in default of such appearance, to any sum of money which the defendant may be or to pay in the suit.

3. (1) A surety for the appearance of a defe may at any time apply to the Cou which he became such surety to be ...ion.

Procedure on application by surety to be discharged.

... .he Court ... .hinks fit, ...stance.

(3) On the appearance of the defendant in pursu of the summons or warrant, or on his voluntary surre the Court shall direct the surety to be discharged f his obligation, and shall call upon the defendant to fresh security.

4. Where the defendant fails to comply with order under rule 2 or rule 3, the Co may commit him to the civil prison til the decision of the suit or, when decree is passed against the defend until the decree has been satisfied:

Procedure where defendant fails to furnish security or find fresh security.

Provided that no person shall be detained in pri under this rule in any case for a longer period than months, nor for a longer period than six weeks when amount or value of the subject-matter of the suit does exceed fifty rupees:

Provided also that no person shall be detained in prison under this rule after he has complied with such order.

Attachment before Judgment.

Where defendant may be called upon to furnish security for production of property.

5. (1) Where, [illegible] fi [illegible] e d[illegible], [illegible] lay the execution of any decree that may be passed against him,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court,

the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required the said property or, the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

Attachment where cause not shown or security not furnished.

6. (1) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Court, the Court may order that the property specified, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, be attached.

(2) Where the defendant shows such cause or furnishes the required security, and the property specified or any portion of it has been attached, the Court shall

order the attachment to be withdrawn, or make such other order as it thinks fit.

Mode of making attachment.

7. Save as otherwise expressly provided, the attachment shall be made in the manner provided for the attachment of property in execution of a decree.

Investigation of claim to property attached before judgment.

8. Where any claim is preferred to property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for the payment of money.

Removal of attachment when security furnished or suit dis[illegible]

9. Where an order is made for attachment before judgment, the Court shall order the attachment to be withdrawn when the [illegible] requir[illegible] [illegible]chment, [illegible]

Attachmen[illegible] judgment not [illegible] rights of stra[illegible] bar decree-ho[illegible] applying for [illegible]

10. Attachment before judgment shall not affect [illegible] [illegible]ttache[illegible]

the sale [illegible] such decree.

Propert[illegible] before jud[illegible] be re-attached in execution of decree.

11. [illegible] by virtue [illegible]der and a [illegible] *in* favour of the plaintiff, it shall not be necessary [illegible] upon an application for execution of such decree to apply for a re-attachment of the property.

[illegible] the[illegible] [illegible]ch[illegible] [illegible] the [illegible] em[illegible] [illegible] of such produce, [illegible]

ORDER XXXIX.

Temporary Injunctions and Interlocutory Orders.

Temporary Injunctions.

Cases in which temporary injunction may be granted.

1. Where in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends to remove or dispose of his property with a view to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, until the disposal of the suit or until further orders.

Injunction to restrain repetition or continuance of breach.

2. (1) In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

nt.

(3) In case of a disobedience, or of breach of any such terms, the Court granting an injunction may order the

property of the person guilty of such disobedience breach to be attached and may also order such person be detained in the civil prison for a term not exceed six months, unless in the meantime the Court directs release.

(4) No attachment under this rule shall remain force for more than one year, at the end of which time the disobedience or breach continues, the property attac may be sold, and out of the proceeds the Court may aw such compensation as it thinks fit, and shall pay balance, if any, to the party entitled thereto.

Before granting injunction Court to direct notice to opposite party

3. The Court shall in all cases, except where it app that the object of granting the injunc would be defeated by the delay, be granting an injunction, direct notic the application for the same to be given to the opp party.

Order for injunction may be discharged, varied or set aside

4. Any order for an injunction may be discharged varied, or set aside by the Court application made thereto by any p dissatisfied with such order.

Injunction to corporation binding on its officers

5. An injunction directed to a corporation is bin not only on the corporation itself, also on all members and officers of corporation whose personal actio seeks to restrain.

Interlocutory Orders.

6. The Court may, on the application of any par suit order the sale by any pe

and natural decay, or which for any other just and icient cause it may be desirable to have sold at once.

Detention, preservation, inspection, etc., of subject-matter of suit.

7. (*1*) The Court may, on the application of any party to a suit, and on such terms as it thinks fit,—

(*a*) make an order for the detention, preservation or inspection of any property which is the subject-matter of such suit, or as to which any question may arise therein;

(*b*) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit; and

(*c*) for all or any of the purposes aforesaid authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

(2) The provisions as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this rule.

Application for such orders to be after notice.

8. (*1*) An application by the plaintiff for an order under rule 6 or rule 7 may be made after notice to the defendant at any time after institution of the suit.

(2) An application by the defendant for a like order may be made after notice to the plaintiff at any time after appearance.

When party may be put in immediate possession of land the subject-matter of suit.

9. Where land paying revenue to Government, or a tenure liable to sale, is the subject-matter of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may, upon payment of the revenue or rent due

those concerned will be promoted by the manageme the Collector, the Court may, with the consent of Collector, appoint him to be receiver of such property

ORDER XLI.

Appeals from Original Decrees.

Form of appeal. What to accompany memorandum

1. (1) Every appeal shall be preferred in the for a memorandum signed by the appe or his pleader and presented to Court or to such officer as it appoin this behalf. The memorandum sha accompanied by a copy of the decree appealed from (unless the Appellate Court dispenses therewith) of judgment on which it is founded.

Contents of memorandum.

(2) The memorandum shall set forth, concisely under distinct heads, the ground objection to the decree appealed f without any argument or narrat and such grounds shall be numbered consecutively.

Grounds which may be taken in appeal

2. The appellant shall not, except by leave of Court, urge or be heard in suppor any ground of objection not set fort the memorandum of appeal; but Appellate Court, in deciding the appeal, shall not confined to the grounds of objection set forth in memorandum of appeal or taken by leave of the Co under this rule:

Provided that the Court shall not rest its decision any other ground unless the party who may be affec thereby has had a sufficient opportunity of contesting

appellant for the purpose of being amended with time to be fixed by the Court or be amended then there

(2) Where the Court rejects any memorandum, it shall record the reasons for such rejection.

(3) Where a memorandum of appeal is amended, the Judge, or such officer as he appoints in this behalf, shall sign or initial the amendment.

One of several plaintiffs or defendants may obtain reversal of whole decree where it proceeds on ground common to all.

4. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed from proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal from the whole decree, and thereupon the Appellate Court may reverse or vary the decree in favour of all the plaintiffs or defendants, as the case may be.

Stay of proceedings and of execution.

Stay by Appellate Court.

5. (*1*) An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.

Stay by Court which passed the decree.

(2) Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.

(3) No order for stay of execution shall be made under sub-rule (*1*) or sub-rule (*2*) unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

(4) Notwithstanding anything contained in sub-rule (3), the Court may make an *ex parte* order for stay of execution pending the hearing of the application.

Security in case of order for execution of decree appealed from.

6. (1) Where an order is made for the execution of a decree from which an appeal is pending, the Court which passed the decree shall on sufficient cause [illegible] appellant, require [illegible] any property [illegible] the decree or [illegible] the value of such property and for the due performance of the decree or order of the Appellate Court, or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

(2) Where an order has been made for the sale of immoveable property in execution of a decree, and an appeal is pending from such decree, the sale shall, on the application of the judgment-debtor to the Court which made the order, be stayed on such terms as to giving security or otherwise as the Court thinks fit until the appeal is disposed of.

No security to be required from the Government or a public officer in certain cases.

7. No such security as is mentioned in rules 5 and 6 shall be required from [illegible] Secretary [illegible] Government [illegible] of th[illegible] any public officer sued in respect of an act alleged to be done by him in his official capacity.

Exercise of powers in appeal from order made in execution of decree.

8. The powers conferred by rules 5 and 6 shall be exercisable where an appeal may be or has been preferred not from the decree but from an order made in execution of such decree.

Procedure on admission of appeal.

9. (1) . . . . admitted, [Registry of memorandum of appeal.] . . . . . oper officer . . . . ereon the te of presentation, and shall register the appeal in a ok to be kept for the purpose.

[Register of Appeals.] (2) Such book shall be called the Register of Appeals.

10. (1) The Appellate Court may in its discretion, [Appellate Court may require appellant to furnish security for costs.] either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, emand from the appellant security for the costs of the ppeal, or of the original suit, or of both :

Provided that the Court shall demand such security in [Where appellant resides out of British India.] all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable roperty within British India other than the property if any) to which the appeal relates.

(2) Where such security is not furnished within such ime as the Court orders, the Court shall reject the ppeal.

11. (1) The Appellate Court, after sending for the [Power to dismiss appeal without sending notice to Lower Court.] record if it thinks fit so to do, and after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, may dismiss the appeal without sending notice to the Court from whose decree he appeal is preferred and without serving notice on he respondent or his pleader.

(2) If on the day fixed or any other day to which the hearing may be adjourned the appellant does not appear when the appeal is called on for hearing, the Court may make an order that the appeal be dismissed.

(3) The dismissal of an appeal under this rule shall be notified to the Court from whose decree the appeal preferred.

12. (1) Unless the Appellate Court dismisses the appeal under rule 11, it shall fix a day for hearing the appeal.

Day for hearing appeal.

(2) Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

13. (1) Where the appeal is not dismissed under rule 11, the Appellate Court shall send notice of the appeal to the Court from whose decree the appeal is preferred.

Appellate Court to give notice to Court whose decree appealed from.

(2) Where th

Transmission of papers to Appellate Court.

ceiving such notic

all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

(3) Either party may apply in writing to the Court from whose decree the appeal is preferred, specifying any of the papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of, and given to, the applicant.

Copies of exhibits in Court whose decree appealed from.

14. (1) Notic

Publication and service of notice of day for hearing appeal.

decree the appeal is preferred, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided for the service on a defendant of a summons to appear and answer; and all the provisions applicable to such summons, and to proceedings with

rence to the service thereof, shall apply to the service of such notice.

(2) Instead of sending the notice to the Court from whose decree the appeal is preferred the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the provisions above referred to.

Appellate Court may itself cause notice to be served.

15. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Contents of notice.

Procedure on hearing.

16. (1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

Right to begin.

(2) The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

17. (1) Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Court may make an order that the appeal be dismissed.

Dismissal of appeal for appellant's default.

(2) Where the appellant appears and the respondent does not appear, the appeal shall be heard *ex parte*.

Hearing appeal ex parte.

18. Where on the day fixed, or on any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed the sum required to defray the cost of serving the notice, the Court may make an order that the appeal be dismissed:

Dismissal of appeal where notice not served in consequence of appellant's failure to deposit costs.

Provided that no such order shall be made although the notice has not been served upon the respondent, if on any such day the respondent appears when the appeal is called on for hearing.

[illegible] admission of [illegible] dismissed for [illegible]

19 Where an appeal is dismissed under rule 11, sub-rule (2), or rule 17 or rule 18 the appellant may apply to the Appellate Court for the re-admission of the appeal; and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing or from depositing the sum so required, the Court shall re-admit the appeal on such terms as to costs or otherwise as it thinks fit

[illegible] to [illegible] and direct [illegible] appearing [illegible] to be made respondents

20. Where it appears to the Court at the hearing that any person who was a party to the suit in the Court from whose decree the appeal is preferred, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court and direct that such person be made a respondent

[illegible] hearing on application of respondent against whom ex parte [illegible] made

21. Where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he may apply to the Appellate Court to re-hear the appeal, and if he satisfies the Court that the notice was not duly served or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing, the Court shall re-hear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

Upon hearing [illegible] [illegible] may [illegible] to decree as if he had preferred separate appeal

22 (1) Any respondent, though he may not have appealed from any part of the decree, may not only support the decree on any of the grounds decided against him in the Court below, but take any cross-

objection to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.

(2) Such cross-objection shall be in the form of a memorandum, and the provisions of rule 1, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of objection and provisions applicable thereto.

(3) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his pleader of having received a copy thereof, the Appellate Court shall cause a copy to be served, as soon as may be after the filing of the objection, on such party or his pleader at the expense of the respondent.

(4) Where, in any case in which any respondent has under this rule filed a memorandum of objection, the original appeal is withdrawn or is dismissed for default, the objection so filed may nevertheless be heard and determined after such notice to the other parties as the Court thinks fit.

(5) The provisions relating to pauper appeals shall, so far as they can be made applicable, apply to an objection under this rule.

23. Where the Court from whose decree an appeal is preferred has disposed of the suit upon a preliminary point and the decree is reversed in appeal, and Appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the Court from whose decree the appeal is preferred, with directions to re-admit the suit under its original number in the

Remand of case by Appellate Court.

register of civil suits, and proceed to determine the suit; and the evidence (if any) recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.

24. Where the evidence upon the record is sufficient [illegible]

the appeal is preferred has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from

25. Where the Court from whose decree the appeal is preferred has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate [illegible]

the suit upon [illegible]
sary, frame is[illegible]
from whose decree the appeal is preferred, and in such case shall direct such Court to take the additional evidence required ;

and such Court shall proceed to try such issues, and shall return the evidence to the Appellate Court together with its findings thereon and the reasons therefor.

Findings and evidence to be put on record. Objections to finding

26. (1) Such evidence and findings shall form part of the record in the suit ; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to any finding.

Determination of appeal

(2) After the expiration of the period so fixed for presenting such memorandum the Appellate Court shall proceed to determine the appeal.

27. (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—

Production of addi- onal evidence in ppellate Court.

(a) the Court from whose decree the appeal is pre- . . . evidence which . . . or

(b) . . . ny document to . . . be examined to enable it to pronounce judgment, or for any other substantial cause,

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

28. Wherever additional evidence is allowed to be . . . duced the Appellate Court may eir . . . ence, or direct the . . . preferred, or any . . . h evidence and to send it when taken to the Appellate Court.

29. Where additional evidence is directed or allowed to be taken the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Points to be defined and recorded.

Judgment in appeal.

30. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court from whose decree the appeal is preferred, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

Judgment when and where pronounced.

31. The judgment of the Appellate Court shall [be] in writing and shall state—

Contents, date and signature of judgment.

(a) the points for determination;

(b) the decision thereon;

(c) the reasons for the decision; and

(d) where the decree appealed from is reversed [or] varied, the relief to which the appellant [is] entitled;

and shall at the time that it is pronounced be signed an[d] dated by the Judge or by the Judges concurring therein.

32. The judgment may be for confirming, varying or reversing the decree from which the appeal is preferred, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be made in appeal, the Appellate Court may pass a decree or make an order accordingly.

What judgment may direct.

33. The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as

Power of Court of Appeal.

any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.

Illustration.

A claims a sum of money as due to him from X or Y, and in a suit against both obtains a decree against X. X appeals and A and Y are respondents. The Appellate Court decides in favour of X. It has power to pass a decree against Y.

34. Where the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

Dissent to be recorded.

Decree in appeal.

35. (*1*) The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

Date and contents of decree.

(*2*) The decree shall contain the number of the appeal, the names and descriptions of the appellant and respondent, and a clear specification of the relief granted or other adjudication made.

(*3*) The decree shall also state the amount of costs incurred in the appeal, and by whom, or out of what property, and in what proportions such costs and the costs in the suit are to be paid.

(*4*) The decree shall be signed and dated by the Judge or Judges who passed it :

Provided that where there are more Judges than one and there is a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Judge dissenting from judgment need not sign decree.

36. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Appellate Court and at their expense.

Copies of judgment and decree to be furnished to parties.

37. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed from and shall be filed with the original

Certified copy of decree to be sent to Court whose decree appealed from.

proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

ORDER XLII.

Appeals from Appellate Decrees.

[illegible]

1 The rules of Order XLI shall apply so far as may be, to appeals from appellate decrees.

ORDER XLIII.

Appeals from Orders.

Appeals from orders.

1 An appeal shall lie from the following orders under the provisions of section 104, namely :—

(a) an order under rule 10 of Order VII returning a plaint to be presented to the proper Court;

(b) an order under rule 10 of Order VIII pronouncing judgment against a party :

(c) an order under rule 9 of Order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;

(d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed *ex parte*;

(e) an order under rule 4 of Order X pronouncing judgment against a party ;

(f) an order under rule 21 of Order XI ;

(g) an order under rule 10 of Order XVI for the attachment of property ;

(h) an order under rule 20 of Order XVI pronouncing judgment against a party ;

(i) an order under rule 34 of Order XXI on an objection to the draft of a document, or of an endorsement ;

(j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale ;

ORDER XLIV.

Pauper Appeals.

Who may appeal as pauper

1. Any person entitled to prefer an appeal, who is unable to pay the fee required for the ... presentation ... memorandum ... appeal as a pauper, ... presentation of such ... suits by paupers, in so far as those provisions are applicable:

Procedure on application for admission of appeal.

Provided that the Court shall reject the application unless, upon a perusal thereof and of the judgment and decree appealed from, it sees reason to think that the decree is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Inquiry into pauperism

2. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or under the orders of the Appellate Court by the Court from whose decision the appeal is preferred:

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court from whose decree the ... inquiry in respect of ... less the Appellate Court

ORDER XLV.

Appeals to the King in Council.

"Decree" defined

1. In this Order, unless there is something repugnant in the subject or context, the expression "decree" shall include a final order.

Application to Court whose decree complained of

2. Whoever desires to appeal to His Majesty in Council shall apply by petition to the Court whose decree is complained of.

Certificate as to value — fitness.

3. (*1*) Every petition shall state the grounds of appeal and pray for a certificate either that, as regards amount or value and nature, the case fulfils the requirements of section 110, or that it is otherwise a fit one for appeal to His Majesty in Council.

(2) Upon receipt of such petition, the Court shall direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

Consolidation of suits

4. For the purposes of pecuniary valuation, suits involving substantially the same questions for determination and decided by the same judgment may be consolidated : but suits decided by separate judgments shall not be consolidated, notwithstanding that they involve substantially the same questions for determination.

Remission of dispute to Court of first instance.

5. In the event of any dispute arising between the parties as to the amount or value of the subject-matter of the suit in the Court of first instance, or as to the amount or value of the subject-matter in dispute on appeal to His Majesty in Council, the Court to which a petition for a certificate is made under rule 2 may, if it thinks fit, refer such dispute for report to the Court of first instance, which last-mentioned Court shall proceed to determine such amount or value and shall return its report together with the evidence to the Court by which the reference was made.

Effect of refusal of certificate.

6. Where such certificate is refused, the petition shall be dismissed.

Security and deposit required on grant of certificate.

7. (*1*) Where the certificate is granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the date of the grant of the certificate, whichever is the later date,—

(a) impound any moveable property in dispute or any part thereof, or

(b) allow the decree appealed from to be executed taking such security from the respondent as the Court thinks fit for the due performance of any order which His Majesty in Council may make on the appeal, or

(c) stay the execution of the decree appealed from taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed from, or of any order which His Majesty in Council may make on the appeal, or

(d) place any party seeking the assistance of the Court under such conditions or give such other direction respecting the subject-matter of the appeal, as it thinks fit, by the appointment of a receiver or otherwise.

Increase of security found inadequate

14 (1) Where at any time during the pendency of the appeal the security furnished by either party appears inadequate, the Court may, on the application of the other party, require further security

(2) In default of such further security being furnished as required by the Court,—

(a) if the original security was furnished by the appellant, the Court may, on the application of the respondent, execute the decree appealed from as if the appellant had furnished no such security :

(b) if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay the further execution of the decree, and restore the parties to the position in which they respectively were when the secu-

rity which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

15. (1) Whoever desires to obtain execution of any order of His Majesty in Council shall apply by petition, accompanied by a certified copy of the decree passed or order made in appeal and sought to be executed, to the Court from which the appeal to His Majesty was preferred.

to enforce ...ers of King in Coun-

(2) Such Court shall transmit the order of His Majesty in Council to the Court which passed the first decree appealed from, or to such other Court as His Majesty in Council by such order may direct, and shall (upon the application of either party) give such directions as may be required for the execution of the same; and the Court to which the said order is so transmitted shall execute it accordingly, in the manner and according to the provisions applicable to the execution of its original decrees.

(3) When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed at the date of the making of the order by the Secretary of State for India in Council with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

16. The orders made by the Court which executes the order of His Majesty in Council, relating to such execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the execution of its own decrees.

Appeal from order relating to execution

(4) A Court subordinate to a District Court shal comply with any requisition which the District Court may make for any record or information for the purpose of this rule.

ORDER XLVII.

Review.

Application for review of judgment.

1. (1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

To whom applications for review may be made

2. An application for review of a decree or order of a Court, not being a High Court, upon some ground other than the discovery of such new and important matter

evidence as is referred to in rule 1 or the existence of a clerical or arithmetical mistake or error apparent on the face of the decree, shall be made only to the Judge who passed the decree or made the order sought to be reviewed;

... who passed ... to issue ... rule 4, sub-rule (2), proviso (a), be disposed of by successor.

Form of application for review.

3. The provisions as to the form of preferring appeals shall apply, *mutatis mutandis*, to applications for review.

Application where rejected.

4. (1) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

Application where granted.

(2) Where the Court is of opinion that the application for review should be granted, it shall grant the same:

Provided that—

(a) no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the decree or order, a review of which is applied for, and

(b) no such [illegible] ground [illegible] which th[illegible] knowlec[illegible] when th[illegible] without strict proof of such allegation.

Application for review in Court consisting of two or more Judges.

5. Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not

(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purpose of this rule.

ORDER XLVII.

Review.

Application for review of judgment

1. (1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error [illegible] for any other [illegible] the decree passed [illegible] for a review of [illegible] e decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can [illegible] Court the case on which [illegible]

[illegible] ew of a decree or order [illegible] a Court, not being a High Court, upon some ground other than the discovery of such new and important matter

To whom applications for review may be made.

evidence as is referred to in rule 1 or the existence of a clerical or arithmetical mistake or error apparent on the [illegible] of the decree, shall be made only to the Judge who [illegible]

[illegible] rule 4, sub-rule (2), proviso (*a*), be disposed of by successor.

Form of application for review.

3. The provisions as to the form of preferring appeals shall apply, *mutatis mutandis*, to applications for review.

Application where rejected.

4. (*1*) Where it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

Application where granted

(*2*) Where the Court is of opinion that the application for review should be granted, it shall grant the same:

Provided that—

(*a*) no such application shall be granted without previous notice to the opposite party, to enable him to appear and be heard in support of the decree or order, a review of which is applied for: and

(*b*) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed or made, without strict proof of such allegation.

Application for review in Court consisting of two or more Judges.

5. Where the Judge or Judges, or any one of the Judges, who passed the decree or made the order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not

ORDER XLIX

Chartered High Courts.

Who may serve processes of High Court.

1. Notice to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants, writs of execution and notices to respondents may be served by the attorneys in the suits, or by persons employed by them, or by such other persons as the High Court, by any rule or order, directs.

Saving in respect of Chartered High Courts

2. Nothing in this schedule shall be deemed to limit or otherwise affect any rules in force at the commencement of this Code for the taking of evidence or the recording of judgments and orders by a Chartered High Court.

Application o[illegible]

3 The [illegible] o any Chartered [illegible] rcise of its ordi[illegible] original civil jurisdiction, namely :—

(*1*) rule 10 and rule 11, clauses (*b*) and (*c*) of Order VII ,

(*2*) rule 3 of Order X ;

(*3*) rule 2 of Order XVI

(*4*) rules 5, 6, 8, 9, 10, 11, 13, 14, 15 and 16, (so far as relates to the manner of taking evidence) of Order XVIII ;

(*5*) rules 1 to 8 of Order XX ; and

(*6*) rule 7 of Order XXXIII (so far as relates to the making of a [illegible]

and [illegible] to any such High C[illegible] jurisdiction

ORDER L.

Provincial Small Cause Courts.

Provincial Small Cause Courts.

1. The provisions hereinafter specified shall not extend to Courts constituted under the Provincial Small Causes Courts Act, 1887, (IX of 1887), or to Courts exercising the jurisdiction of a Court of Small Causes under that Act, that is to say—

(a) so much of this schedule as relates to—

(i) suits excepted from the cognizance of a Court of Small Causes or the execution of decrees in such suits ;

(ii) the execution of decrees against immoveable property or the interest of a partner in partnership property ;

(iii) the settlement of issues ; and

(b) the following rules and orders,—

Order II, r. 1 (frame of suit) ;

Order X, r. 3 (record of examination of parties) ;

Order XV, except so much of rule 4 as provides for the pronouncement at once of judgment ;

Order XVIII, rules 5 to 12 (evidence) ;

Orders XLI to XLV (appeals) ;

Order XLVII, rules 2,3,5,6,7 (review) ;

Order LI.

ORDER LI.

Presidency Small Cause Courts.

Presidency Small Cause Courts.

(1) Save as provided in rules 22 and 23 of Order V, rules 4 and 7 of Order XXI, and rules 4 of Order XXVI, and by the Presidency Small Cause Courts Act, 1882, (XV of 1882), this schedule shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

APPENDIX A.

PLEADINGS

(1) TITLES OF SUITS

IN THE COURT OF

A. B. *(add description and residence)* .. *Plaintiff*,
against
C. D. *(add description and residence)* .. *Defendant*.

(2) DESCRIPTION OF PARTIES IN PARTICULAR CASES.

The Secretary of State for India in Council

The Advocate General of

The Collector of

The State of

The A B Company, Limited, having its registered office at

A B, a public officer of the C D. Company.

A B *(add description and residence)*, on behalf of himself and other creditors of C D, late of *(add description and residence)*.

A. B *(add description and residence)*, on behalf of himself and all other holders of debentures issued by the Company, Limited.

The Official Receiver.

A. B., a minor (*add description and residence*), by C. D. [or the Court of Wards], his next friend.

A. B. (*add description and residence*), a person of unsound [or of weak mind], by C. D., his next friend

A. B. a firm carrying on business in partnership at

A. B. (*add description and residence*), by his constituted attorney C. D. (*add description and residence*).

A. B. (*add description and residence*), Shebait of Thakur

A. B. (*add description and residence*), executor of C. D., deceased

A. B. (*add description and residence*), heir of C. D. deceased.

(3) Plaints

No. 1

MONEY LENT.

Title

A. B., the above named plaintiff, states as follows:—

1. On the day of 19 , he lent the defendant rupees repayable on the day of

2. The defendant has not paid the same, except rupees paid on the day of 19 .

[*If the plaintiff claims exemption from any law of limitation say.*—]

3. The plaintiff was a minor [or insane] from the day of till the day of

4. [*Facts showing when the cause of action arose and that the Court has jurisdiction.*]

5. The value of the subject-matter of the suit for the purpose of jurisdiction is rupees and for the purpose of court-fees is rupees.

6. The plaintiff claims rupees, with interest at per cent from the day of 19 .

No 2

MONEY OVERPAID.

Title.

A B., the above-named plaintiff, states as follows

1. On the day of 19 , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.

2. The plaintiff procured the said bars to be assayed by E. F., who was paid by the defendant for such assay, and *E. F* declared each of the bars to contain 1,500 tolas of fine silver, and the plaintiff accordingly paid the defendant rupees

3. Each of the said bars contained only 1,200 tolas of fine silver, of which fact the plaintiff was ignorant when he made the payment

4. The defendant has not repaid the sum so overpaid

[*As in paras 4 and 5 of Form No 1, and Relief claimed*]

No 3.

GOODS SOLD AT A FIXED PRICE AND DELIVERED.

Title

A B, the above named plaintiff, states as follows —

1 On the day of 19 , *E. F.* sold and delivered to the defendant [one hundred barrels of flour, *or* the goods mentioned in the schedule hereto annexed, [*or* sundry goods]

2 The defendant promised to pay rupees for the said goods on delivery [*or* on the day of , *some day before the plaint was filed*]

3 He has not paid the same

4 *E F* died on the day of 19 .
By his last will he appointed his brother, the plaintiff, h
executor

[As in paras 4 and 5 of Form No 1.]

7 The plaintiff as executor of *E F*, claims [*Reliefs claimed*

No. 4

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED

(*Title*)

1. *B* the above named plaintiff, states as follows —

1 On the day of 19 , plaintiff
sold and delivered to the defendant [sundry articles of house
furniture] but no express agreement was made as to the price

2 The goods were reasonably worth rupees

3 The defendant has not paid the money

[As in paras 4 and 5 of Form No 1, and Reliefs claimed

No. 5

GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED

(*Title*)

1 *B*, the above-named plaintiff, states as follows :—

1 On the day of 19 , *E F* agreed
with the plaintiff that the plaintiff should make for him [*six tables
and fifty chairs*], and that *E F.* should pay for the goods on
delivery rupees.

2. The plaintiff made the goods, and on the day of
19 offered to deliver them to *E. F.*, and has ever
since been ready and willing so to do

3. *E. F.* has not accepted the goods or paid for them

[*As in paras 4 and 5 of Form No. 1, and Relief claimed*]

No. 6.

DEFICIENCY UPON A RE-SALE (GOODS SOLD AT AUCTION).

(Title)

A. B., the above-named plaintiff, states as follows .

1. On the day of 19 , the plaintiff

which condition the defendant had notice.

2. The defendant purchased [*one crate of crockery*] at the at the price of rupees

3. The plaintiff was ready and willing to deliver the goods the defendant on the date of the sale and for [*ten days*] after.

4. The defendant did not take away the goods purchased by im, nor pay for them within [*ten days*] after the sale, nor afterards.

5. On the day of 19 , the plaintiff -sold the [*crate of crockery*], on account of the defendant, by ublic auction, for rupees.

6 The expenses attendant upon such re-sale amounted rupees

7. The defendant has not paid the deficiency thus arising, mounting to rupees

[*As in paras, 4 and 5 of Form No. 1, and Relief claimed.*]

No. 7.

SERVICES AT A REASONABLE RATE.

(Title)

A B., the above-named plaintiff, states as follows .—

1 Between the day of 19 , and the day of 19 , at , plaintiff executed sundry drawings, design and diagrams] for the defend-

ant, at his request, but no express agreement was made as to the sum to be paid for such services

2 The services were reasonably worth rupees

3 The defendant has not paid the money.

[*As in paras. 4 and 5 of Form No 1, and Relief claimed*]

No. 8.

SERVICES AND MATERIALS AT A REASONABLE COST

(*Title.*)

A. B. the above-named plaintiff states as follows :—

1 On the day of 19 , at the plaintiff built a house [known as No.] and furnished the materials therefor, for the defendant at his request but no express agreement was made as to the amount to be paid for such work and materials

2 The work done and materials supplied were reasonably worth rupees

3 The defendant has not paid the money

[*As in paras. 4 and 5 of Form No 1 and Relief claimed*]

No 9

USE AND OCCUPATION

(*Title.*)

A B., the above-named plaintiff executor of the will of *X Y*, deceased, states as follows :-

1 That the defendant occupied the [house No. Street], by permission of the said *X Y*, from the day of 19 , until the day of 19 , and no agreement was made as to payment for the use of the said premises.

2 That the use of the said premises for the said period was reasonably worth rupees.

3 The defendant has not paid the money

[*As in paras. 4 and 5 of Form No. 1*]

6. The plaintiff as executor of X Y., claims [*Relief claimed*]

No. 10

ON AN AWARD.

(*Title.*)

A. B., the above-named plaintiff, states as follows --

1. On the day of 19 , the plaintiff and defendant, having a difference between them concerning demand of the plaintiff for the price of ten barrels of oil, which defendant refused to pay,] *agreed in writing to submit the* difference to the arbitration of E F., and G H., and the original is annexed hereto.

2. On the day of 19 , the arbitrators awarded that the defendant should [pay the plaintiff rupees]

3 The defendant has not paid the money.

[*As in paras. 4 and 5 of Form No 1, and Relief claimed*]

No. 11

ON A FOREIGN JUDGMENT.

(*Title*)

A B, the above-named plaintiff states as follows .—

1. On the day of 19 , at in the State [*or* Kingdom], of , the Court of that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. The defendant has not paid the money.

[*As in paras 4 and 5 of Form No. 1, and Relief claimed.*]

No. 12.

AGAINST SURETY FOR PAYMENT OF RENT

(Title.)

A. B. the above-named plaintiff, states as follows :—

1. On the day of 19 , *E. F.* hired from the plaintiff for the term of years the [house No. Street,] at the annual rent of rupees payable (monthly).]

2. The defendant agreed, in consideration of the letting of the premises to *E. F.* to guarantee the punctual payment of the rent.

3. The rent for the month of 19 , amounting to rupees has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add* :]

4. On the day of 19 , the plaintiff gave notice to the defendant of the non-payment of the rent, and demanded payment thereof.

5. The defendant has not paid the same.

[*As in paras. 4 and 5 of form No. 1, and Relief claimed.*]

No. 13

BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. On the day of 19 , the plaintiff and defendant entered into an agreement, and the original document is hereto annexed.

[*Or*, On the day of 19 , the plaintiff should sell purchase from for rupees].

2. On the day of 19 ,
e plaintiff, being then the absolute owner of the property [and same being free from all incumbrances as was made

efendant of the sum agreed upon.

3. The defendant has not paid the money

[*As in paras. 1 and 5 of Form No. 1, and Relief claimed*]

The Code of Civil Procedure 1908.

(*The First Schedule —Appendix A.—Pleadings.*)

No *14*

NOT DELIVERING GOODS SOLD.

(*Title*)

A. B, the above-named plaintiff, states as follows :-

1. C
anc
[onc

very

2. On the [said] day the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the goods.

[*As in paras. 1 and 5 of Form No 1, and Relief claimed.*]

No 15.

WRONGFUL DISMISSAL

(*Title.*)

A B the above-named plaintiff, states as follows,—

1 On the day of 19 , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, *or* in the capacity of foreman *or as the case may be*], and that the defendant should employ the plaintiff as such for the term of [one year] and pay for his services rupees (monthly

2 On the day of 19 , the plaintiff entered upon the service of the defendant and has ever since been and still is ready and willing to continue in such service during the remainder of the said year whereof the defendant always has had notice

3 On the day of 19 , the defendant wrongfully discharged the plaintiff and refused to permit him to serve as aforesaid or to pay him for his services.

[*As in paras 4 and 5 of Form No 1 and Relief claimed*]

No 16.

BREACH OF CONTRACT TO SERVE

(*Title*)

A B, the above named plaintiff states as follows —

1 On the day of 19 , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual salary of rupees, and that the defendant should serve the plaintiff as artist] for the term of [one year]

2. The plaintiff has always been ready and willing to perform part of the agreement and on the day of 19 , offered so to do]

3. The defendant [entered upon] the service of the plaintiff n the above-mentioned day, but afterwards, on the day of 19 , he refused to serve the plaintiff as aforesaid

[*As in paras, 4 and 5 of Form No. 1, and Relief claimed*]

No. 17

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title*)

A. B, the above-named plaintiff, states as follows .—

1 On the day of 19 , the plaintiff and defendant entered into an agreement, and the original document is hereto annexed [*Or state the tenor of the contract.*]

[2 The plaintiff duly performed all the conditions of the agreement on his part]

3 The defendant [built the house referred to in the agreement in a bad and unworkmanlike manner]

[*As in paras 4 and 5 of Form No. 1, and Relief claimed*]

No 18

ON A BOND FOR THE FIDELITY OF A CLERK.

(*Title*)

A. B, the above-named plaintiff, states as follows : —

1. On the day of 16 , the plaintiff took *E F*, into his employment as a clerk

2. In consideration thereof on the day of 16 , the defendant agreed with the plaintiff that if *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all monies, evidences of debt or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees

and should justly account to the plaintiff for all monies, evidence of debt or other property which should be at any time held by him in trust for the plaintiff, the bond should be void]

[*Or*, 2 In consideration thereof, on the same date the defendant executed a bond in favour of the plaintiff, and the original document is hereto annexed]

3 Between the day of 16 and the day of 16 *E. F.* received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which sum he has not accounted to him and the same still remains due and unpaid

[*As in paras* 4 *and* 5 *of Form No* 1, *and Relief claimed*]

No 19

BY TENANTS AGAINST LANDLORD, WITH SPECIAL DAMAG

(*Title.*)

A *B*, the above-named plaintiff, states as follows :—

1. On the day of 16 , the defendant by a registered instrument, let to the plaintiff [the house No. Street] for the term of years, contracting with the plaintiff that he the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. All conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain his suit.

3 On the day of during the said term *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. The plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of *G. H.* and *I.* by such removal]

[*As in paras* 4 *and* 5 *of Form No* 1, *and Relief claimed*]

No. 20.

ON AN AGREEMENT OF INDEMNITY

(*Title*)

A. B., the above-named plaintiff, states as follows —

1. On the day of 19 , the plaintiff and

hat might be made upon him on account of any indebtedness of the firm.

2 The plaintiff duly performed all the conditions of the agreement on his part

3. On the day of 19 , [a judgment was recovered against the plaintiff and defendant by *E. F*, in the High Court of Judicature at , upon a debt due from the firm to *E. F*, and on the day of 19 ,] the plaintiff paid rupees [in satisfaction of the same].

4 The defendant has not paid the same to the plaintiff [*As in paras 4 and 5 of Form No. 1, and Relief claimed.*]

No 21.

PROCURING PROPERTY BY FRAUD

(*Title*)

A B, the above-named plaintiff, states as follows :—

1 On the day of 19 , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he the defendant, was solvent, and worth rupees over all his liabilities]

2 The plaintiff was thereby induced to sell [and deliver] to the defendant, [dry goods] of the value of rupees.

3. The said representations were false [or, *state the particular falsehoods*] and were then known by the defendant to be so

4. The defendant has not paid for the goods [*Or, the goods were not delivered*]. The plaintiff, in preparing and shipping the goods and procuring their restoration, expended rupees.

[*As in paras. 4 and 5 of Form No. 1, and Relief claimed.*]

No. 22.

FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(*Title.*)

A. B. the above-named plaintiff states as follows:—

1. On the day of 19 , the defendant represented to the plaintiff that *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or*, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. The plaintiff was thereby induced to sell to *E. F.* [rice] of the value of rupees [on months credit].

3. The said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].

4. *E. F.* did not pay for the said goods at the expiration of the credit aforesaid [*or*, has not paid for the said rice, and the plaintiff has wholly lost the same.

[*As in paras. 4 and 5 of Form No. 1 and Relief claimed.*]

No. 23.

POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows.—

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the well, and was

[illegible] to the use and benefit of the well and of the water therein, and to have certain springs and streams of water which flowed and ran into the well to supply the same to flow or run without being fouled or polluted

2. On the day of 19 , the defendant wrongfully fouled and polluted the well and the water therein and the springs and streams of water which flowed into the well.

3. In consequence the water in the well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the well and water.

[*As in paras 4 and 5 of Form No 1, and Relief claimed.*]

No 24

CARRYING ON A NOXIOUS MANUFACTURE.

(*Title*)

A. B, the above-named plaintiff, states as follows —

1. The plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called , situate in .

2. Ever since the day of 19 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and settled on the surface of the lands

3 Thereby the trees, hedges, herbage and crops of the [illegible] in [illegible] nds [illegible]

[illegible] vented from having so beneficial and healthy a use and occupation of the lands as he otherwise would have had

[*As in paras 4 and 5 of Form No. 1, and Relief claimed.*]

No 25.

OBSTRUCTING A RIGHT OF WAY.

(*Title.*)

A B, the above-named plaintiff states as follows.

1 The plaintiff is and at the time hereinafter mentio[ned was] possessed of a house in the village of].

2 He was entitled to a right of way from the [house] [over a] certain field to a public highway and back again from the [highway over the field to the house, for himself and his servants [with] vehicles or on foot at all times of the year

3 On the day of 19 , defe[ndant] wrongfully obstructed the said way so that the plaintiff coul[d not] pass with vehicles or on foot, or in any manner] along the [way] [and has ever since wrongfully obstructed the same].

4 (State special damage if any.)

[As in paras. 4 and 5 of Form No 1 and Relief claimed.]

No. 26.

OBSTRUCTING A HIGHWAY

(*Title.*)

1. The defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it

2. Thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*As in paras. 4 and 5 of Form No 1, and Relief claimed.*]

No. 27.

DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

ioned was,

, in

2. By reason of such possession the plaintiff was entitled to flow of the stream for working the mill.

3. On the day of 19 , the defendant, by cutting the bank of the stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. By reason thereof the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[As in paras 4 and 5 of Form No. 1. and Relief claimed.]

No 28.

OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title)

A B., the above-named plaintiff, states as follows :—

1 Plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, etc , and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2 On the day of 19
ted the
water a
stream.

[As in parzs. 4 and 5 of Form No. 1, Relief claimed]

No. 29.

INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A B, the above-named plaintiff, states as follows:—

1. On the day of 19 , the defendants were common carriers of passengers by railway between and

2. On that day the plaintiff was a passenger in one of the carriages of the defendant *on* the said railway.

3. While he was such passenger, at [*or* near the station of *or* between the stations of and], a collision occurred on the said railway, caused by the negligence and [illegible] the plaintiff was [illegible], and [illegible] or medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[*As in paras. 4 and 5 of Form No. 1, and Relief claimed.*]

[*Or thus* —2. On that day defendant by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, etc., *as in para* 3.]

No. 30.

INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B. the above-named plaintiff, state as follows:—

1. The plaintiff is a shoemaker, carrying on business at
The defendant is a merchant of

2. On the day of , 19 ,the plaintiff was walking southward along Chowringhee, in the City of Calcutta, at about

o' clock in the afternoon. He was obliged to cross Middleton Street, which is a street running into Chowringhee at right angles While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof a carriage of the defendant's, drawn by two hor[illegible]
of the defendant's servants, was [illegible]
out any warning turned at a [illegible]
Middleton Street into Chowr[illegible]
struck the plaintiff and knocked him down, and he was much trampled by the horses

3. By the blow and fall and trampling the plaintiff's left arm was broken and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and is suffering and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

[*As in paras. 4 and 5 of Form No. 1 and Relief claimed.*]

No. 31.

FOR MALICIOUS PROSECUTION.

A. B. the above-named plaintiff, states as follows .—

1. On the day of 19 , the defendant obtained a warrant of arrest from [a Magistrate of the said city, *or as the case may be]* on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, *or* hours, and gave bail in the sum of rupees to obtain his release].

2. In so doing the defendant acted maliciously and without reasonable or probable cause

3. On the day of 19 , the Magistrate dismissed the complaint of the defendant and acquitted the plaintiff.

4 Many persons, whose names are unknown to the plaintiff, hearing of the arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him ; *or*, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E F.* ;

or in consequence the plaintiff suffered pain of body and mind, and was prevented [illegible] his business and was injured in his credit, and
the said imprisonm
complaint.

[*As in paras.4 and 5 of Form No 1, and Relief claimed.*]

No. 32

MOVEABLES WRONGFULLY DETAINED

(*Title.*)

A. B the above-named plaintiff, states as follows.—

1. On the day of 19 , plaintiff owned [*or state facts showing a right to the possession*] the goods mentioned in the schedule hereto annexed [*or describe the goods*], the estimated value of which is rupees

2 From that day until the commencement of this suit the defendant has detained the same from the plaintiff

3 Before the commencement of the suit, to wit on the day of 19 the plaintiff demanded the same from the defendant, but he refused to deliver them.

[*As in paras 4 and 5 of Form No 1.*]

6. The plaintiff claims—

(1) delivery of the said goods, or rupees, in case delivery cannot be had ,

(2) rupees compensation for the detention thereof.

The Schedule.

No. 33.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(*Title.*)

A B. the above-named plaintiff, states as follows:

1. On the day of 19 , the defendant *C. D.*, for the purpose of inducing the plaintiff to sell him certain

represented to the plaintiff that [he was solvent, and worth over all liabilities].

2. The plaintiff was hereby induced to sell and deliver to *C. D.*, [one hundred boxes of tea], the estimated value of which is rupees.

3. The said representations, were false, and were then known by *C. D.* to be so, *or*, at the time of making the said representations, *C. D* was insolvent, and knew himself to be so].

4. *C. D.* afterwards transferred the said goods to the defendant *E. F.* without consideration *[or* who had notice of the falsity of the representation*]*.

[*As in paras. 4 and 5 of Form No. 1.*]

7 The plaintiff claims —

(1) delivery of the said goods, or rupees, in case delivery cannot be had ;

(2) rupees compensation for the detention thereof.

No. 34.

RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE

(*Title*)

A. B, the above-named plaintiff, states as follows :—

1. On the day of 19 ...
represented
to the defen[illegible]

2. The plaintiff was thereby induced to purchase the same at the price of
rupees in the belief that the said representation was true, and signed an agreement, of which the original is hereto annexed But the land has not been transferred to him.

3. On the day of 19 the plaintiff paid the defendant rupees as part of the purchase-money

4. That the said piece of ground contained in fact only [five bighas.]

As in paras. 4 and 5 of Form No.1.]

7. The plaintiff claims—

(1) rupees, with interest from the day of 19

(2) that the said agreement be delivered up and cancelled

No. 35.

AN INJUNCTION RESTRAINING WASTE.

(Title.)

A B, the above-named plaintiff, states as follows:

1. The plaintiff is the absolute owner of [*describe the property*].

2. The defendant is in possession of the same under a lease from the plaintiff.

3. The defendant has [cut down a number of valuable trees and threatens to cut down many more for the purpose of sale without the consent of the plaintiff.

As in paras. 4 and 5 of Form No. 1.]

6. The plaintiff claims that the defendant be restrained by injunction from committing or permitting any further waste on the said premises

[*Pecuniary compensation may also be claimed*]

No. 36.

INJUNCTION RESTRAINING NUISANCE.

A. B., the above-named plaintiff, states as follows:—

1. Plaintiff is ... hereinafter mentioned ...

On the ... erected upon his said plot a ... and from that day ...

·le to be brought and killed there [and has caused the blood ıd offal to be thrown into the street opposite the said house of ·'ie plaintiff].

4. In consequence the plaintiff has been compelled to abandon the said house, and has been unable to rent the same].

[*As in paras. 4 and 5 of Form No 1.*]

The plaintiff claims that the defendant be restrained by injunction from committing or permitting any further nuisance.

No. 37.

PUBLIC NUISANCE.

A. B., the above-named plaintiff, states as follows :—

1. The defendant has wrongly heaped up earth and stones on a public road known as...Street at so as to obstruct the passage of the public along the same and threatens and intends, unless restrained from so doing, to continue and repeat the said wrongful act.

2. The plaintiff have obtained the consent in writing of the Advocate General [*or* of the Collector or other officer appointed in this behalf] to the institution of this suit.

[*As in paras 4 and 5 of Form No. 1.*]

The plaintiff claims—

(1) a declaration that the defendant is not entitled to obstruct the passage of the public along the said public road :

(2) [illegible]

No. 38

AGAINST THE DIVERSION OF A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as fellows :—

[*As in Form No. 27.*]

The plaintiff claims that the defendant be restrained by injunctı from diverting the water as aforesaid.

No. 39.

RESTORATION OF MOVEABLE PROPERTY THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. Plaint
owner of [a po
eminent paint
facts showing that the property is of a kind that cannot be repla by money].

2. *On the* day of 19 , he deposited t same for safe keeping with the defendant.

3. *On the* day of 19 , he demanded t same from the defendant and offered to pay all reasonable charg for the storage of the same.

4. The defendant refuses to deliver the same to the plai and threatens to conceal, dispose of, cut or injure the same required to deliver it up.

5 No pecuniary compensation would be an adequate compe ensation to the plaintiff for loss of the [painting].

[*As in paras. 4 and 5 of Form No. 1.*]

8. The plaintiff claims—

(1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said painting];

(2) that he be compelled to deliver the same to the plaintiff

No. 40

INTERPLEADER.

(*Title*)

A. B., the above-named plaintiff, states as follows :—

1 Before the date of the claims hereinafter mentioned *G. H.* [illegible] with the plaintiff [*describe the property*] for [safe-keeping].

2. The defendant *C. D.* claims the same [under an alleged [illegible]gnment therof to him from *G. H.*].

3. The defendant *E F.* also claims the same [under an order of *G. H.* transferring the same to him].

4. The plaintiff is ignorant of the respective rights of the defendants.

5. He has no claim upon the said property other than for charges and costs, and is ready and willing to deliver it to such persons as the Court shall direct.

6. The suit is not brought by collusion with either of the defendants.

[*As in paras. 4 and 5 of Form No. 1*]

9. The plaintiff claims—

(1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto ;

(2) that they be required to interplead together concerning their claims to the said property ;

(3) that some person be authorized to receive the said property pending such litigation ;

(4) that upon delivering the same to such (person) the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 41.

ADMINISTRATION BY CREDITOR ON BEHALF OF HIMSE AND ALL OTHER CREDITORS

(Title.)

A. B., the above-named plaintiff, states as follows.—

1 *E F.*, late of , was at the time of his death, and l estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2 *E F*, died on or about the day of . By his last will, dated the day of he appointed *C. D.* his executor [or devised his estate in tr etc, *or* died intestate, *as the case may be*]

3. The will was proved by *C D.* [*or* letters of administra were granted, etc].

4. The defendant has possessed himself of the moveable [a immoveable] *or* the proceeds of the immoveable property *E F*, and has not paid the plaintiff his debt.

As in paras. 4 and 5 of Form No 1.

7. The plaintiff claims that an account may be taken of t moveable [and immoveable] property of *E. F.*, deceased, and th the same may be administered under the decree of the Court

No. 42.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[*Alter form No. 41 thus*]—

[*Omit paragraph 1 and commence paragraph 2*] *E. F.*, late of died on or about the day of . By h last will, dated the day of he appointed *C. D* his executor, and bequeathed to the plain [*here state the specific legacy*].

For paragraph 4 substitute—

The defendant is in possession of the moveable property of F., and, amongst other things, of the said [*here name the sub- of the specific bequest*].

For the commencement of paragragh 7 substitute—

The plaintiff claims that the defendant may be ordered to iver to him the said [*here name the subject of the specific*], or that etc

No 43

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

Alter Form No 41 thus :—

[*Omit paragraph* 1 *and substitute for paragraph* 2] *E.F.*, late of ed on or about the day of . By his will, dated the day of he appointed *D.* his executor, and bequeathed to the plaintiff a legacy of rupees.

In paragraph 4 *substitute* " *legacy*" *for* " *debt*

Another form.

(Title.)

E. F., the above-named plaintiff, states as follows :—

1. *A. B.* of *K.* in the died on the day of By his last will, dated the day of , he appointed defendant and *M. N* [who died in the testator's lifetime] executors, and bequeathed his property, whether moveable immoveable, to his executors in trust, to pay the rents and thereof to the plaintiff for his life ; and after his decease, in default of his having a son who should attain twenty-one, daughter who should attain that age or marry, upon trust to his immoveable property for the person who would be the 's heir-at-law, and as to his moveable property for the

persons who would be the testator's next-of-kin if he ha[d died] intestate at the time of the death of the plaintiff, and such [persons] of his issue as aforesaid.

2. The will was proved by the defendant on the d[ay of] The plaintiff has not been married.

3 The testator was at his death entitled to moveable [and] immoveable property; the defendant entered into the receip[t of] the rents of the immoveable property and got in the move[able] property; he had sold some part of the immoveable property

[*As in paras 4 and 5 of form No. 1.*]

6 The plaintiff claims—

(1) to have the moveable and immoveable propert[y of] *A B.* administered in the Court, and for that purp[ose] to have all proper directions given and accoun[ts] taken,

(2) such further or other relief as the nature of the ca[se] may require.

No. 44.

EXECUTION OF TRUSTS.

(*Title.*)

A B, the above-named plaintiff, states as follows:—

1 He is one of the trustees under an instrument of settlement bearing date on or about the day of ma[de] upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant [*or* an instrument of transfer of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and the other cre[ditors] of *E. F.*]

2. *A. B.* has taken upon himself the burden of the said trust and is in possession of [*or* of the proceeds of] the moveable and immoveable property transferred by the said instrument.

3. *C. D.* claims to be entitled to a beneficial interest under the instrument.

[*As in paras. 4 and 5 of Form No. 1.*]

6. The plaintiff is desirous to account for all the rents and ofits of the said immoveable property [and the proceeds of the of the said, *or* of part of the said, *immoveable property, or* veable, *or* the proceeds of the sale of, *or* of part of, the said veable property, *or* the profits accruing to the plaintiff as such e in the execution of the said trust]; and he prays that the will take the accounts of the said trust, and also that the

D. may show *good cause to the contrary.*

[*N. B.—Where the suit is by a beneficiary, the plaint may be odelled, mutatis mutandis, on the plaint by a legatee.*]

No. 45.

FORECLOUSER OR SALE

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. The plaintiff is mortgagee of lands belonging to the defen-

2. The following are the particulars of the mortgage :—

(*a*) (date);

(*b*) (names of mortgagor and mortgagee);

(*c*) (sum secured)

(*d*) (rate of interest);

(*e*) (property subject to mortgage);

(*f*) (amount now due);

(*g*) (*if the plaintiff's title is derivative, state shortly the transfers or devolution under which he claims.*)

(*If the plaintiff is mortgagee in possession, add*)

3. The plaintiff took possession of the mortgaged propert
the day of and is ready to account as mortg
in possession from that time.

[*As in paras. 4 and 5 of From No. 1.*]

6 The plaintiff claims:—

(1) payment, or in default [sale *or*] foreclosure [and pos-sion],

[*Where Order 34, rule 6, applies*]

(2) in case the proceeds of the sale are found to be insuf-cient to pay the amount due to the plaintiff, then liberty be reserved to the plaintiff to apply for a decree for the balance

No 46.

REDEMPTION.

(*Title*)

A B, the above-named plaintiff, states as follows:—

1 The plaintiff is mortgagor of lands of which the defend is mortgagee

2 The following are the particulars of the mortgage:—

(*a*) (date);

(*b*) (names of mortgagor and mortgagee);

(*c*) (sum secured);

(*d*) (rate of interest);

(*e*) (property subject to mortgage);

(*f*) (*if the plantiff's title is derivative, state shortly the trans-fers or devolution under which he claims*)

If the defendant is mortgagee in possession, add)

3. The defendant has taken possession [*or* has received the rents] of the mortgaged property,

[*As in paras. 4 and 5 of Form No. 1*]

6. The plaintiff claims to redeem the said property and to have the same reconveyed to him [and to have possession thereof

No. 47.

SPECIFIC PERFORMANCE (No. 1).

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. By an agreement dated the day of and signed by the defendant, he contrac- d to buy of [*or* sell to] the plaintiff certain immoveable property described and referred to, for the sum of rupees.

2. The plaintiff has applied to the defendant specifically to rform the agreement on his part, but the defendant has not so

3 The plaintiff has been and still is ready and willing speci- perform the agreement on his part of which the defendant had notice.

[*As in paras. 4 and 5 of Form No. I.*]

6. The plaintiff claims that the Court will order the defendant fically to perform the agreement and to do all acts necessary put the plaintiff in full possession of the said property [*or* to a transfer and possession of the said property] and to pay costs of the suit.

No 48.

SPECIFIC PERFORMANCE (No. 2).

(*Title*)

A B., the above-named plaintiff, states as follows :—

1. On the day of 19 plaintiff and defendant entered into an agreement, in writing the original document is hereto annexed.

The defendant was absolutely entitded to the immoveable pro- described in the agreement.

2. On the day of 19 the plaintiff tendered rupees to the defendant and demanded a transfer of the said property by a sufficient instrument

3 On the day of 19 the plaintiff again demanded such transfer [*or the defendant refused to transfer the same to the plaintiff*].

4. The defendant has not executed any instrument of transfer.

5 The plaintiff is still ready and willing to pay the purchase money of the said property to the defendant.

[*As in paras. 4 and 5 of Form No. I.*]

8 The plaintiff claims—

(1) that the defendant transfer the said property to the plaintiff by a sufficient instrument [*following the terms of the agreement*];

(2) rupees compensation for withholding the same

No 49

PARTNERSHIP

(*Title*)

A B, the above-named plaintiff, states as follows:—

1. He and *C D*, the defendant have been for years [*or months*] past carrying on business together under articles of partnership in writing, [*or under a deed, or under a verbal agreement*].

2 Several disputes and differences have arisen between the [illegible] ... it has become [illegible] ... advantage [illegible] the following

breaches of the partnership articles.—

(1)

(2)

(3)]

[*As in paras 4 and 5 of Form No. I*]

The *plaintiff claims*—

(1) *dissolution of the partnership*,

(2) that accounts be taken;

(3) that a receiver be appointed

clai
fact

---

(1) WRITTEN STATEMENTS.

General defences.

Denial — The defendant denies that (*set out facts*)

The defendant does not admit that (*set out facts*)

The defendant admits that but says that

Protest — The defendant denies that he is a partner in the defendant firm of.

The defendant denies that he made the contract alleged or any contract with the plaintiff

The defendant denies that he contracted with *the plaintiff as alleged or at all.*

The defendent admits assets but not the plaintiff's *claim*

The defendant denies that the plaintiff sold to him the goods mentioned in the plaint or any of them.

Limitation — The suit is barred by article or article of the second schedule to the Indian Limitation Act, 1877.

Jurisdiction — The Court has no jurisdiction to hear the suit on the ground that (*set forth the grounds.*)

On the day of a diamond ring was delivered by the defendant to and accepted by the plaintiff in discharge of the alleged cause of action

Insolvency	The defendant has been adjudged an in-solvent
	The plaintiff before the institution of the suit was adjudged an insolvent and the right to sue vested in the receiver.
Minority.	The defendant was a minor at the time of making the alleged contract.
Payment into Court	The defendant as to the whole claim (or as to Rs part of the money claimed, or as *the case may be*) has paid into Court Rs and says that this sum is enough to satisfy the plaintiff's claim (*or* the part aforesaid).
Performance remitted.	The performance of the promise alleged was remitted on the (*date*).
Rescission	The contract was rescinded by agreement between the plaintiff and defendant
Res judicata.	The plaintiff's claim is barred by the decree in suit (*give the reference*)
Estoppel	The plaintiff is estopped from denying the truth of *insert statement as to which estoppel is claimed*) because (*here state the facts relied on as creating the estoppel*).
Ground of defence subsequent to institution of suit	Since the institution of the suit, that is to say, on the day of (*set out facts*).

No 1.

DEFENCE IN SUITS FOR GOODS SOLD AND DELIVERED

1. The defendant did not order the goods.
2. The goods were not delivered to the defendant
3. The price was not Rs

[*or*]

4. }
5. } Except as to Rs , same as { 1. 2. 3.
6. }

7. The defendant [or A. B., the defendant's agent] satisfied the claim by payment before suit to the plaintiff [or to C. D., the plaintiff's agent] on the day of 19 .

8. The defendant satisfied the claim by payment after suit to the plaintiff on the day of 19 .

No. 2.

DEFENCE IN SUITS ON BONDS

1. The bond is not the defendant's bond.

2. The defendant made payment to the plaintiff on the day *according to the condition of the bond.*

3. The defendant made payment to the plaintiff after the day named and before suit of the principal and interest mentioned in the bond.

No 3

DEFENCE IN SUITS ON GUARANTEES

1. The principal satisfied the claim by payment before suit.

2. The defendant was released by the plaintiff giving time to the principal debtor in pursuance of a binding agreement.

No 4

DEFENCE IN ANY SUIT FOR DEBT.

1. As to Rs 200 of the money claimed, the defendant is entitled to set off for goods sold and delivered by the defendant to the *plaintiff*

Particulars are as follows —

		Rs.
1907,	January 25th	150
,,	February 1st	50
		200

2. As to the whole [*or* as to Rs. , part of *the money* claimed] the defendant made tender before suit of Rs , and has paid the same into Court

No. 5

DEFENCE IN SUITS FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

1 The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, and that it was under the charge or control of the defendant's servants The carriage belonged to of Street, Calcutta, livery stable keepers employed by the defendant to supply him with carriages and horses , and the person under whose charge and control the said carriage was, was the servant of the said ,

2 The defendant does not admit that the said carriage was turned out of Middleton Street, either negligently, suddenly or without warning, or at a rapid or dangerous pace.

3 The defendant says the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it

4 The defendant does not admit the statements contained in the third paragraph of the plaint

No. 6

DEFENCE IN ALL SUITS FOR WRONGS.

1 Denial of the several acts [*or* matters] complained of.

No. 7.

DEFENCE IN SUITS FOR DETENTION OF GOODS

1. The goods were not the property of the plaintiff.

2 The goods were detained for a lien to which the defendant was entitled.

Particulars are as follows –

1907, May 3rd. To carriage of the goods claimed from Delhi to Calcutta . Rs

15 maunds at Rs 2 per maund . . . ,

No 8.

DEFENCE IN SUITS FOR INFRINGEMENT OF COPYRIGHT.

1 The plaintiff is not the author [*assignee*]

2 The book was not registered.

3 The defendant did not infringe

No 9.

DEFENCE IN SUITS FOR INFRINGEMENT OF TRADE MARK.

1. The trade mark is not the plaintiff's.

2. The alleged trade mark is not a trade mark.

3 The defendant did not infringe

No 10

DEFENCES IN SUITS RELATING TO NUISANCES

1 The plaintiff's lights are not ancient [*or* deny his other alleged prescriptive rights]

2 *The plaintiff's lights will not be materially interfered with* by the defendant's buildings

3. The defendant denies that he or his servants pollute the water [*or* do what is complained of]

[*If the defendant claims the right by prescription or otherwise to do what is complained of, he must say so, and must state the grounds of the claim,* i e., *whether by prescription, grant or what*]

4 The plaintiff has been guilty of laches of which the following are particulars -

1870 Plaintiff's mill began to work.

1871 Plaintiff came into possession

1883. First complaint.

5. As to the plaintiff's claim for damages the defendant will rely on the above grounds of defence, and says that the acts complained of have not produced any damage to the plaintiff. [*If other grounds are relied on, they must be stated,* e g , *limitation as to past damage*]

No. 11.

DEFENCE TO SUIT FOR FORECLOSURE.

1 The defendant did not execute the mortgage.

2 The mortgage was not transferred to the plaintiff (*if more than one transfer is alleged, say which is denied*).

3 The suit is barred by article of the second schedule to the Indian Limitation Act, 1877

4 The following payments have been made, *viz.*:—

		Rs.
(*Insert date*)	... ...	1,000
(*Insert date*)	... ...	500

5 The plaintiff took possession on the of , and has received the rents ever since

6 That plaintiff released the debt on the of

7. The defendant transferred all his interest to A. B by a document dated

No 12.

DEFENCE TO SUIT FOR REDEMPTION.

1. The plaintiff's right to redeem is barred by article , of the second schedule to the Indian Limitation Act, 1877.

2 The plaintiff transferred all interest in the property to A. B.

3 The defendant, by a document dated the day of transferred all his interest in the mortgage-debt and property comprised in the mortgage to A. B

4 The defendant never took possession of the mortgaged property, or received the rents thereof.

(*If the defendant admits possession for a time only, he should state the time and deny possession beyond what he admits.*)

No. 13.

DEFENCE TO SUIT FOR SPECIFIC PERFORMANCE

1. The defendant did not enter into the agreement.

2. A. B. was not the agent of the defendant (*if alleged by plaintiff*).

3 The plantiff has not performed the following conditions—(*Conditions*).

4. The defendant did not—(*alleged acts of part perfomance*).

5. The plaintiff's title to the property agreed to be sold is not such as the defendant is bound to accept by reasons of the following matter—(*State why*).

6. The agreement is uncertain in the following respects—(*State them*)

7. (*or*)The plaintiff has been guilty of delay;

8 (*or*) The plaintiff has been guilty of fraud (*or* misrepresentation).

9 (*or*) The agreement is unfair;

10. (*or*) The agreement was entered into by mistake.

11 The following are particulars of (7), (8), (9), (10) (*or as the case may be*)

12. The agreement was rescinded under Conditions of Sale, No. 11 (*or* by mutual agreement)

In cases where damages are claimed and the defendant disputes his liability to damages, he must deny the agreement or the alleged breaches, or show whatever other ground of defence he intends to rely on, e g, the Indin Limitation Act, accord and satisfaction, release, fraud, etc.)

No 14.

DEFENCE IN ADMINISTRATION SUIT BY PECUNIARY LEGATEE

[illegible]

2. The defendant applied the whole of the said sums and the sum of Rs. which the defendant received from rents of the

unmoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the day of 19 , and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer

4 The defendant submits that the plaintiff ought to pay the costs of this suit

---

No 15

PROBATE OF WILL IN SOLEMN FORM.

1 The said will and codicil of the deceased were not duly executed according to the provisions of the Indian Succession Act, 1865 [*or* of the Hindu Wills Act, 1870]

2. The deceased at the time the said will and codicil respectively purport to have been executed, was not of sound mind, memory and understanding

3 The execution of the said will and codicil was obtained by the undue influence of the plaintiff [and others acting with him whose names are at present unknown to the defendant]

4. The execution of the said will and codicil was obtained by the fraud of the plaintiff, such fraud, so far as is within defendant's present knowledge being [*state the nature of the fraud*].

[illegible] will and [illegible]reof, [or [illegible] the case *may be*]

6 The deceased made his true last will, dated the 1st January 1873, and thereby appointed the defendant sole executor thereof

The defendant claims :-

(1) that the Court will pronounce against the said will and codicil propounded by the plaintiff .

(2) that the Court will decree probate of the will of the deceased, dated the 1st January, 1873, in solemn form of law

No 16.

PARTICULARS (O. 6, r. 5.)

(Title of suit.)

Particulars The following are the particulars *(here state the matters in respect of which particulars have been ordered)* delivered pursuant to the order of the of

(Here set out the particulars ordered in paragraphs if necessary.)

APPENDIX B.

PROCESS

No 1

SUMMONS FOR DISPOSAL OF SUIT (O. 5, rr 1.)

(Title)

To

[*Name description and place of residence*]

WHEREAS
has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by a pleader duly instructed and able to answer all material questi[illegible] relating to the suit or who shall be accompanied by some pers[illegible] able to answer all such questions, on the day of
19 , at o'clock in the noon, to answer the claim, and as the [illegible] is appointed fo[illegible] the final disposal [illegible] dance on that day all the [illegible] e docu-ments upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

NOTICE —1 Should you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any [illegible] document [illegible] ness to depo[illegible]

2. If you admit the claim, you should pay the money into Court together with the costs of the suit, to avoid execution of the decree, which may be against your person or property, or both

No 2

SUMMON FOR SETTLEMENT OF ISSUES (O. 5, rr. I, 5)

(*Title*)

To

[*Name, description and place of residence.*]

WHEREAS

has instituted a suit against you for
you are hereby summoned to appear in this Court in person, or by a pleader duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, on the day of 19 , at o'clock in the noon, to answer the claim, and you are directed to produce on that day all the documents upon which you intend to rely in support of your defence

Take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence

GIVEN under my hand and the seal of the Court, this day of 19

Judge

NOTICE —1 Should you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the Court and on depo-

2.

against your person or property or both

No. 3

SUMMONS TO APPEAR IN PERSON. (O 5. r. 3)

(Title)

To

[*Name description and place of residence*]

WHEREAS

has instituted a suit against you for

you are hereby summoned to appear in this Court in person on the day of 19 , at o'clock in the noon, to answer the claim, and you are directed to produce on that day all the documents upon which you intend to rely in support of your defence

Take notice that, in default of your appearance on the day before mentioned the suit will be heard and determined in your absence

Given under my hand and the seal of the Court, this day of 19 .

Judge

No 4

SUMMON IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT

(O. 37. r 2)

Title.)

To

[*Name description and place of residence*]

WHEREAS under Order XXXVII of the ,balance of pri of a of are hereby summoned to obt days from the service hereof within such time to cause an In default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. and the sum of Rs for costs.

Leave to appear may be obtained on an application to the Court upported by affidavit or declaration showing that there is a lefence to the suit on the merits, or that it is reasonable that you hould be allowed to appear in the suit

GIVEN under my and hand the seal of the Court this lay of 19

Judge

No 5

NOTICE TO PERSON WHO, THE COURT CONSIDERS, SHOULD BE ADDED AS CO-PLAINTIFF (O. I, r. 10.)

(*Title*)

To

[*Name, description and place of residence.*]

WHEREAS has instituted the above suit against for and whereas it appears necessary that you should be added as a plaintiff in the said suit in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved .

Take notice that you should on or before day of 19 signify to this Court whether you consent to be so added

GIVEN under my hand and the seal of the Court, this day of 19

No 6.

SUMMONS TO LEGAL REPRESENTATIVE OF A DECEASED DEFENDANT (O. 22, r. 4.)

(*Title*)

To

Whereas the plaintiff instituted a suit in this Court on the day of 19 against the defendant who is made an represen e made the defendant in his stead

You are hereby summoned to attend in this Court on day of 19 at a. m. to defend the said suit, and default of your appearance on the day specified, the said suit will be heard and determined in your absence.

Given under my hand and the seal of the Court, this day of 19

Judge.

No. 7.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

(O 5, r 21)

(*Title.*)

Whereas it is stated that defendant/witness in the above suit is at present residing at

It is ordered that a summons returnable on the day of 19 , be forwarded to the Court of for service on the said defendant/witness with a duplicate of this proceding.

The court fee of chargeable in respect to the summons has been realized in this Court in stamps

Dated 19

Judge

No. 8

ORDER FOR TRANSMISSION OF SUMMONS TO BE SERVED ON A PRISONER. (O. 5. r. 24)

(*Title*)

To

The Superintendent of the Jail at

UNDER the provisions of Order V, rule 24 of the Code of Civil Procedure, 1908, a summons in duplicate is herewith forwarded for service on the defendant who is a prisoner in jail You are requested to cause a copy of the said

to be served upon the said defendant and to return the ...inal to this Court signed by the said defendant, with a state... of service endorsed thereon by you.

Judge

No 9

ORDER FOR TRANSMISSION OF SUMMONS TO BE SERVED ON A PUBLIC SERVANT OR SOLDIER. (O. 5 rr. 27, 28.)

(Title)

To

Under the provisions of Order V, rule 27 [*or* 28, *as the case ...y be*], of the Code of Civil Procedure, 1908, a summons in ...iplicate is herewith forwarded for service on the defendant who is stated to be serving under you. You are ...quested to cause a copy of the said summons to be served upon the said defendant and to return the original to this Court signed by the said defendant, with a statement of service endorsed thereon by you

Judge.

No 10

TO ACCOMPANY RETURNS OF SUMMONS OF ANOTHER COURT. (O 5, r. 23.)

(Title)

Read proceeding from the forwarding . for service on in Suit No. of 19 of that Court.

Read Serving Officer's endorsement stating that the and proof of the above having been duly taken by me on the oath of and it is ordered that the be returned to the with *a copy of this proceeding*.

Judge.

Note.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 11.

AFFIDAVIT OF PROCESS-SERVER TO ACCOMPANY RETURN OF A SUMMONS OR NOTICE (O. 5. r. 18.)

(Title.)

The Affidavit of son of make affirm

and say as follows

(1) I am a process-server of this Court.

(2) On the day of 19

I received a summons/notice issued by the Court of

in Suit No.

of 19 in the said Court, dated the day of 19 for service on

(3) The said was at the time personally known to me and

I served the said summons/notice on him/her on the day of

19 at about o'clock in the noon at by tendering a copy thereof to him/her and requiring his/her signature to the original summons/notice

(a)

(b)

(a) Here state whether the person served signed or refused to sign the process and in whose presence

(b) Signature of process server

or,

(3) The said not being personally known to me accompanied to and pointed out to me a person whom he stated to be the said , and I served the said summons/notice on him/her on the day of 19 , at about o'clock in the noon at by

...g a copy thereof to $\frac{\text{him}}{\text{her}}$ and requiring $\frac{\text{his}}{\text{her}}$ signature to the original $\frac{\text{summons}}{\text{notice}}$.

(a)

(b)

(a) Here state whether the person served signed or refused to sign the pr ces , and in whose presence

(b) Singature of process-server.

or,

(3) The said and the house in which he ordinarily ...es being personally known to me, I went to the said house, in and there on the day of) , at about o'clock in the noon, I did not find the said

(a)

(b)

(a) Enter fully and exactly the manner in which the process was ...rved, with special reference to Order 5, rules 15 and 17.

(b) Signature of process-server

or,

(3) One accompanied me to and there pointed out to me which he said was the house in which ordinarily resides I did not find the said there,

(a)

(b)

(a) Enter fully and exactly the manner in which the process was ...rved, with special reference to Order 5, rules 15 and 17.

(b) Signature of process-server.

or,

If substituted service has been ordered, state fully and exactly the manner in which the summons was served with special reference to the terms of the order for substituted service.

Sworn / Affirmed by the said , before me

day of 19 .

Empowered under section 139 of Code of Civil Procedure to administer the oath to deponents

No 12.

NOTICE TO DEFENDANT O. 9, r. 6)

(Title.

Name description and place of residence)

To

WHEREAS this day was fixed for the hearing of the above suit and a summons was issued to you and the plaintiff has appeared in this Court and you did not so appear, but from the return of the Nazir it has been proved to the satisfaction of the Court that the said summons was served on you but not in sufficient time to enable you to appear and answer on the day fixed in the said summons,

Notice is hereby given to you that the hearing of the suit is adjourned this day and that the day of 19 is now fixed for the hearing of the same; in default of your appearance on the day last mentioned the suit will be heard and determined in your absence

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No. 13.

SUMMONS TO WITNESS. (O 16, rr. 1, 5.)

(Title)

To

WHEREAS your attendance is required to on behalf of the in the above suit, you are

...eby required [personally] to appear before this court on the day of 19 , at o'clock in the forenoon, and to bring with you [or to send to Court]

† A sum of Rs. , being your travelling and ...er expenses and subsistance allowance for one day, is herewith ...at. If you fail to comply with this order without lawful excuse, ...ou will be subject to the consequences laid down in rule 12 of ...rder XIV of the Code of Civil Procedure.

GIVEN under my hand and the seal of the Court, this 19 .

Judge.

...OTICE.—(1) If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2) If you are detained beyond the day aforesaid, a sum of Rs will be tendered to you for each day's attendance beyond the day specified.

No. 14

PROCLAMATION REQUIRING ATTENDANCE OF WITNESS.
(O 16, r 10)

(Title)

...o

WHEREAS it appears from the examination on oath of the serv... officers that the summons could not be served upon the witness ...n the manner prescribed by law · and whereas it appears that ...he evidence of the witness is material, and he absconds and ...eps out of the way for the purpose of evading the service of ...he summons · This proclamation is therefore, under rule 10 of ...rder XVI of the Code of Civil Procedure, 1908, issued requir... the attendance of the witness in this Court on the ...ay of 19 at o'clock in the forenoon,

and from day to day until he shall have leave to depart: and if the witness fails to attend on the day and hour aforesaid he will be dealt with according to law.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

IY 0

No. 15.

PROCLAMATION REQUIRING ATTENDANCE OF WITNESS

(O 16 r. 10)

(*Title*)

To

WHEREAS it appears from the examination on oath of the serving officer upon the witness, and material and h summons This proclamation is therefore, under rule 10 of Order XVI of the Code of Civil Procedure, 1908, issued, requiring the attendance of the witness in this Court on the day of 19 at o'clock in the forenoon and from day to day until he shall have leave to depart; and if the witness fails to attend on the day and hour aforesaid he will be dealt with according to law.

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No. 16.

WARRANT OF ATTACHMENT OF PROPERTY OF WITNESS

(O. 16 r 10)

(*Title.*)

To

The Bailiff of the Court.

WHEREAS the witness
cited by
has not, after the expiration of the period limited in the

...lamation issued for his attendance, appeared in Court; You are hereby directed to hold under attachment . . . rty belonging to the said witness to the value of nd to submit a return, accompanied with an inventory thereof, ithin days.

GIVEN under my hand and the seal of the Court, this ay of 19 .

Judge.

No. 17

WARRANT OF ARREST OF WITNESS, (O 16, r. 10.)

(*Title.*)

To

The Bailiff of the Court

WHEREAS has been duly served with a summons but has failed to attend [absconds and keeps out of the way for the propose of avoiding service of a summons]; You are hereby ordered to arrest and bring the said before the Court

You are further ordered to return this warrant on or before the day of 19 with an endorsement certifying the day on and the manner in which it has been executed or the reason why it has not been executed.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 18

WARRANT OF COMMITTAL. (O. 16, r. 16.)

(*Title.*)

To

The Officer in charge of the Jail at

WHEREAS the plaintiff [or defendant] in the above named suit has made application to this Court that security be taken for the

appearance of to give evidence [or to produce a document,] on the day of 19 , and whereas the Court has called upon the said to furnish such security, which he has failed to do; This is to require you to receive the said into your custody in the civil prison and to produce him before this Court at on the said day and on such other days as may be hereafter ordered.

GIVEN under my hand and seal of the Court, this day of 19

Judge

No. 19.

WARRANT OF COMMITTAL

(*Title*) O 16. r. 18)

To

The Officer in charge of the Jail at

Whereas , whose attendance is required before the Court in the above named case to give evidence (*or to produce a document*) has been arrested and brought before the Court in custody and whereas owing to the absence of the plaintiff (*or defendant*), the said cannot give such evidence (*or produce such document*) and whereas the Court has called upon the said to give security for his appearance on the day of 19 at which he has failed to do, This is to require you to receive the said into your custody in the civil prison and to produce him before this Court at on the day of 19 .

Given under my hand and the seal of the Court, this day of

Judge.

APPENDIX C.

DISCOVERY, INSPECTION AND ADMISSION.

No. 1

ORDER FOR DELIVERY OF INTERROGATORIES. (O. 11, r. 1.)

In the Court of
Civil Suit No   of   19 .

A. B . ... .. *Plaintiff*,

against

C D, E. F and G. H. ... ... *Defendants.*

Upon hearing and upon reading the affidavit of filed the day of 19 , It is ordered that the be at liberty to deliver to the interrogatories in writing, and that the said do answer the interrogateries as prescribed by Order XI, rule 8, and that the costs of this aplication be

No. 2

INTERROGATORIES (O. 11, r 4.)

(Title as in No. 1, supra.)

Interrogatories on behalf of the above-named [*plaintiff or defendant C D*] for the examination of the above-named [*defendants E F, and G H. or plaintiff*].

1 Did not etc.

2 Has not, etc.

etc., etc., etc.

[*The defendant E. F. is required to answer the interrogatories numbered* .]

[*The defendant G. H. to required to answer the interrogatories numbered* .]

No. 3.

ANSWER TO INTERROGATORIES (O 11, r 9)

(Title as in No. 1, supra.)

The answer of the above-named defendant E. F. to the interrogatories for his examination by the above named plaintiff

In answer to the said interrogatories, I, the above named E. F make oath and say as follows --

1. } Enter answers to interrogatories in paragraphs numbered
2. } consecutively

3 I object to answer the interrogatories numbered on the ground that [*states grounds of objection.*]

No. 4.

ORDER FOR AFFIDAVIT AS TO DOCUMENTS. (O 11 r 12)

Title as No. 1. supra.)

Upon hearing

It is order that the do within days from the date of this order answer on affidavit stating which documents are or have been in his possession or power relating to the matters in question in this suit and that the costs of this application be

No. 5.

AFFIDAVIT AS TO DOCUMENTS. (O 11, r 13.)

(Title as in No 1. supra.)

I, the above named defendant C. D., make oath and say as follows —

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the first schedule hereto [*state grounds of objection.*]

3 I have had, but have not now, in my possession or power the documents relationg to the matters in question in this suit set forth in the second schedule hereto.

4. The last-mentioned documents were last in my possession or power on [*state when and what has become of them and in whose possession they now are*]

5 According to the best of my knowledge, information and belief I have not now, and never had, in my possession custody or power or in the possession, custody or power of my pleader or agent, or in the possession, custody or power of any other person on my behalf, any account, book of account, voucher, receipt, letter, memorandum paper or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this suit or any of them, or wherein any entry has been made relative to such matters or any of them, other than and except the documents set forth in the said first and second schedules hereto.

No. 6.

ORDER TO PRODUCE DODUMENTS FOR INSPECTION (O 11, r 14).

(Title as in No 1, supra.)

Upon hearing and upon reading the affidavit of filed the day of 19 , It is ordered that the do, at all seasonable times, on reasonable notice, produce at , situate at , the following documents, namely, , and that the be at liberty to inspect and peruse the documents so produced, and to make notes of their contents. In the meantime it is ordered that all further proceedings be stayed and that the costs of this application be

No. 7.

NOTICE TO PRODUCE DOCUMENTS. (O. 11, r. 16.)

(Title as in No. 1, supra.)

Take notice that the [*plaintiff or defendant*] requires you to produce for his inspection the following documents referred to in

your [plaint or written statement or affidavit dated the day of 19 .]

[Describe documents required.]

X. Y., Pleader for the

To Z. Pleader for the

No 8.

NOTICE TO INSPECT DOCUMENTS (O. 11, r 17.)

Title as in No 1 supra.)

Take notice that you can inspect the documents mentioned in your notice of the day of 19 , [*except the documents numbered in that notice*] at [*insert place of inspection*] on Thursday next, the instant, between the hours of 12 and 4 o'clock.

Or, that the [*plaintiff or defendant*] objects to giving you inspection of documents mentioned in your notice of the day of 19 , on the ground that [*state the ground*]

No 9.

NOTICE TO ADMIT DOCUMENTS (O 12. r. 3)

Title as in No 1, supra)

Take notice that the plaintiff [*or defendant*] in this suit proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (or plaintiff), his pleader or agent, at on , and the between the hours of defendant [*or plaintiff*] is hereby required, within forty-eight hours from the last [illegible] such of the said documents as are [illegible] specified to have been written, signed or e[illegible] been , that such as are specified as copies are true copies ; and such documents as are stated to have been served, sent or delivered, were so served, sent or delivered, respectively saving all just exceptions to the admissibility of all such documents as evidence in his suit

G. H., *pleader* [or *agent*] *for plaintiff* [or *defendant*].

To E. F., *pleader* [or *agent*] *for defendant* [or *plaintiff*].

[*Here describe the documents and specify as to each document whether it is original or a copy.*]

No. 10

NOTICE TO ADMIT FACTS [O. 12, r. 5.]

(*Title as in No. 1, supra.*)

Take notice that the plaintiff [*or* defendant] in this suit requires the defendant [*or* plaintiff] to admit for the purposes of [illegible] specified;

G. H., *pleader* [or *agent*] *for plaintiff* [*or defendant*].

To E. F., *pleader* [or *agent*] [*for defendant* [or *plaintiff*]

The facts, the admisson of which is required, are—

1. That M died on the 1st January, 1890
2. That he died intestate
3. That N was his only lawful son.
4. That O died on the 1st April, 1896
5. That O was never married.

No. 11.

ADMISSION OF FACTS PURSUANT TO NOTICE. (O. 12, r. 5.)

(*Title as in No 1, supra.*)

The defendant [or plaintiff] in this suit, for the purposes of [illegible] -un- [illegible] -ny, [illegible] -ibi-

Provided that this admission is made for the purposes of this suit only, and is not an admission to be used against the defendant [*or* plaintiff] on any other occasion or by any one other than the plaintiff [*or* defendant, *or* party requiring the admission].

E. F., *pleader* [or *agent*] *for defendant* [or *plaintiff*].

To G. H., *pleader* [or *agent*] *for plaintiff* [or *defendant*].

Facts admitted	Qualifications or limitations if any subject to which they are admitted
1 That M died on the 1st January, 1890 .	1
2 That he died intestate .	2.
3 That N. was his lawful son	3 But not that he was his only lawful son.
4, That O. died .	4 But not that he died on the 1st April, 1836.
5. That O was never married .	5

No 12

NOTICE TO PRODUCE (GENERAL FORM) (O. 12, r. 8.)

Title as in No. 1. supra.)

. . . and show . . . papers, . . . in your custody, possession or power, containing any entry, memorandum or minute relating to the matters in question in this suit, and particularly

G. H., *pleader* [or *agent*] *for plaintiff* [or *defendant*].

To E. F., *pleader* [or *agent*] *for defendant* [or *plaintiff*].

APPENDIX D,

DECREES.

No. 1.

DECREE IN ORIGINAL SUIT. (O. 20, rr. 6, 7.)

(*Title*)

Claim for

This suit coming on this day for final disposal before in the presence of for the plaintiff and of for the defendant, it is ordered and decreed that and that the sum of Rs. be paid by the to the on account of the costs of this suit, with interest thereon at the rate of per cent. per annum from this date to date of realization.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

Costs of Suit.

Plaintiff.	Rs.	A.	P.	Defendant.	Rs.	A.	P.
1. Stamp for plaint...				Stamp for power ...			
2. Do for power ...				Do. for petiton ...			
3. Do for exhibits ...				Pleader's fee ...			
4. Pleader's fee on Rs				Subsistence for witnesses ...			
5. Subsistence for witnesses ...				Service of process ...			
6 Commissioner's fee				Commissioner's fee ...			
7. Service of process							
Total ...				Total ...			

day of 19 , (b) the plaintiff shall deliver up etc (as in Form No. 3)

(4) That in default of the second defendant paying the said sum on or before the said day he shall be debarred from all right to redeem the property.

(5) That in case the first defendant shall redeem the mortgaged property, if the second defendant pays into Court the said sums of Rs y and s on or before the day of 19 , (b) the first defendant shall deliver up etc (as in form No. 3).

(6) That in default of the second defendant paying the said sums on or before the said day he shall be debarred from all right to redeem the property. [Where the second defendant is in possession add *and shall put the first defendant in possession of the property*]

No. 7.

DECREE FOR SALE—FIRST MORTGAGEE V. SECOND MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff on account of principal, interest and costs calculated up to the day of 19 ,is Rs. x, and that on the said day there will be due to the first defendant on account of principal, interest and costs Rs. y and it is decreed as follows:—

(1) That if the defendants or either of them pay into Court the said sum of Rs. x on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No. 4)

(2) That if payment of the said sum is not made on or before the day of 19 ,the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the ex-

(b) Insert a day within thee months from the date mentioned in (a).

... be paid into Court to the credit of this suit,
... plaintiff of the said sum of
... costs as may be allowed
... the first defendant of the
said sum of Rs. y and such subsequent interest and costs as aforesaid; and that the balance, if any, be paid to the second defendant.

(3) That in case the defendants or either of them shall pay the ...

wise as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay ...

No. 8.

DECREE FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs. y and to the first defendant Rs. x as in Form No, 7.]

And it is decreed as follows :—

(1) That if the plaintiff or the second defendant pays into Court the said sum of Rs. x on or before the said day of 19 , the first defendant shall deliver up, ect. (as in Form No. 4).

(2) That if payment of the said sum is not made on or before the day of 19 , the first defendant shall be at liberty to apply that the suit be dismissed or for the sale of the mortgaged property, and in case he shall apply for a sale the mortgaged property or a sufficient part thereof shall be sold free from the incumbrances of the plaintiff and first defendant, and the proceeds of the sale (after *defraying* thereout the expenses of the sale) shall be paid into Court and

day of 19 , (b) the pla[...]
shall deliver up etc. (as in Form No. 3)

(4) That in default of the second defendant paying the [...] sum on or before the said day he shall be debarred from all r[...] to redeem the property.

(5) That in case the first defendant shall redeem the m[...]gaged property, if the second defendant pays into Court the [...] sums of Rs y and s on or before the da[...] 19 , (b) the first defendant shall del[...] up etc. (as in form No. 3).

(6) That in default of the second defendant paying the [...] sums on or before the said day he shall be debarred from [...] right to redeem the property. [Where the second defendant i[...] possession add *and shall put the first defendant in possessio[...] the property*]

No. 7.

DECREE FOR SALE —FIRST MORTGAGEE V. SECOND MORT[...]GEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff [...] account of principal, interest and costs calculated up to t[...] day of 19 ,is Rs. x, and that on the s[...] day there will be due to the first defendant on account of prin[...]pal, interest and costs Rs. y and it is decreed as follows :—

(1) That if the defendants or either of them pay into Co[...] the said sum of Rs x on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No. 4)

(2) That if payment of the said sum is not made on or bef[...] the day of 19 ,the mortgaged property or [...] sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the e[...]

(b) Insert a day within thee months from the date mentioned in (a)

ses of the sale) be paid into Court to the credit of this suit, l applied, first in payment to the plaintiff of the said sum of x and such subsequent interest and costs as may be allowed the Court; secondly, in payment to the first defendant of the d sum of Rs. y and such subsequent interest and costs as resaid; and that the balance, if any, be paid to the second fendant.

(3) That in case the defendants or either of them shall pay the d sum of Rs. x as aforesaid he or they shall be at liberty to ply to the Court that the plaintiff's mortgage may be kept alive the benefit of the person making the said payment or otherse as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay e said sum of Rs. x and such subsequent interest and costs in ll, the plaintiff shall be at liberty to apply for a personal decree r the amount of the balance.

No. 8.

CREE FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs. y nd to the first defendant Rs. x as in Form No, 7.]

And it is decreed as follows :—

(1) [illegible]
ourt

eliver [illegible]

(2) That if payment of the said sum is not made on or before
ıe day of
9 , the first defendant shall be at liberty to apply that the [illegible]

[illegible] (after defraying
ereout the expenses of the sale) shall be paid into Court and

day of 19 , (b) the pl[illegible]
shall deliver up etc (as in Form No. 3)

(4) That in default of the second defendant paying the s[illegible] sum on or before the said day he shall be debarred from all r[illegible] to redeem the property.

(5) That in case the first defendant shall redeem the m[illegible]gaged property, if the second defendant pays into Court the [illegible] sums of Rs y and s on or before the d[illegible] 19 , (b) the first defendant shall del[illegible] up etc (as in form No. 3)

(6) That in default of the second defendant paying the s[illegible] sums on or before the said day he shall be debarred from right to redeem the property. [Where the second defendant is [illegible] possession add *and shall put the first defendant in possession [illegible] the property*]

No. 7.

DECREE FOR SALE —FIRST MORTGAGEE V. SECOND MORTGA[illegible]GEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION

(Title).

It is hereby declared that the amount due to the plaintiff [illegible] account of principal, interest and costs calculated up to t[illegible] day of 19 ,is Rs. x, and that on the sa[illegible] day there will be due to the first defendant on account of prin[illegible]pal, interest and costs Rs y and it is decreed as follows :—

(1) That if the defendants or either of them pay into Co[illegible] the said sum of Rs x on or before the said day of 19 the plaintiff shall deliver up, etc. (as in form No 4)

(2) That if payment of the said sum is not made on or befo[illegible] the day of 19 ,the mortgaged property or [illegible] sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the ex[illegible]

(b) Insert a day within thee months from the date mentioned in th[illegible]

enses of the sale) be paid into Court to the credit of this suit, nd applied, first in payment to the plaintiff of the said sum of 's. x and such subsequent interest and costs as may be allowed y the C[illegible] defendant of the aid su[illegible] erest and costs as foresai[illegible] paid to the second efendant.

(3) That in case the defendants or either of them shall pay the said sum of Rs. x as aforesaid he or they shall be at liberty to apply to the Court that the plaintiff's mortgage may be kept alive for the benefit of the person making the said payment or otherwise as he or they may be advised.

(4) That if the net proceeds of the sale are insufficient to pay the said sum of Rs. x and such subsequent interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No 8.

DECREE FOR SALE—SECOND MORTGAGEE V. FIRST MORTGAGEE AND MORTGAGOR—ONE PERIOD FOR REDEMPTION.

(Title.)

[Insert declarations of the amounts due to the plaintiff Rs y and to the first defendant Rs. x as in Form No, 7]

And it is decreed as follows :—

(1) [illegible] Cou[illegible]

deliver up, ect. (as in Form No 4).

(2) That if payment of the said sum is not made on or before the day of 19 , the first defendant shall be at liberty to apply that the suit be dismissed or for the sale of the mortgaged property ; and in case he shall apply for a sale the mortgaged property or a sufficient part thereof shall be sold free from the in cumbrances of the plaintiff and first defendant, and the proceeds of the sale (after defraying thereout the expenses of the sale) shall be paid into Court and

applied, first, in payment to the first defendant of the said su Rs. x and such subsequent interest and costs as may be allowe the Court. Secondly, in payment to the plaintiff of the said su Rs. y and such subsequent interest and costs as aforesaid; that the balance, if any, be paid to the second defendant.

(3) That if the plaintiff shall pay the said sum of Rs. x Court on or before the day of 19 , the second de dant shall be at liberty to pay into Court the said sum and sum of Rs. y on or before the day of 19 , and thereupon the plaintiff shall deliver up etc (Form No. 4).

(4) That if the plaintiff shall pay the said sum as afore but the second defendant shall fail to pay the said sum aforesaid the mortgaged property or a sufficient part thereof be sold, as [illegible] defraying thereout penses of [illegible] ment to the plainti the said [illegible] uch subsequent inte and costs [illegible], and that the bala if any, be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to the said sums, interest and costs in full, the plaintiff shall b liberty to apply for a personal decree for the amount of the lance.

No. 9.

DECREE FOR SALE [illegible]

MC [illegible] ST-

(Title)

[Insert declarations of the amounts due to the plaintiff R and to the first defendant Rs. y as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall be liberty to pay into Court the said sums of Rs. x and Rs. y resp tively on or before the day of 19 and upon either of the payments being made the plaintiff sh

er up, etc. (as in Form No. 4), and thereupon the the sum of e shall be paid to the plaintiff.

2) In the event of payment by the second defendant as said the first defendant shall also deliver up etc. (as in Form 4,) and thereupon the residue (after payment to the plaintiff oresaid) shall be paid to the first defendant.

3) In default of payment by the first and second defendants foresaid the mortgaged property or a sufficient part thereof l be [illegible]
exp[illegible]
in [illegible]
sequ[illegible]
nat [illegible]
ed the amount of principal and interest due to the first defen- t) secondly, in payment to the first defendant of the excess of y over Rs x and such subsequent interest and costs as afore- ; and that the balance, if any, be paid to the second defen- t

(4) In the event of payment by the first defendant and in de- lt of *payment by the second defendant as aforesaid, the first* endant shall be at liberty to apply for the sale of the mortga- [illegible] thereof [illegible] l in pay- [illegible] and such [illegible] ourt and balance, if any, shall be paid to the second defendant

(5) That if the net proceeds of the sale are insufficient to pay aforesaid sums with further interest and costs the plaintiff or first defendant, as the case may be, shall be at liberty to apply a personal decree for the amount of the balance

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No 10

FINAL DECREE FOR FORCLOSURE (O 34, r 3)

(Title)

Upon reading the decree passed in the above suit on the day of 19 , and the applica-

applied, first in payment to the first defendant of the said s Rs. x and such subsequent interest and costs as may be allow the Court. Secondly, in payment to the plaintiff of the said s Rs. y and such subsequent interest and costs as aforesaid that the balance, if any, be paid to the second defendant

(3) That if the plaintiff shall pay the said sum of Rs. Court on or before the day of 19 , the second d dant shall be at liberty to pay into Court the said sum an sum of Rs. y on or before the day of 19 , and thereupon the plaintiff shall deliver up etc. Form No. 4)

(4) That if the plaintiff shall pay the said sum as afor but the second defendant shall fail to pay the said sum aforesaid the mortgaged property or a sufficient part thereof be sold, and the proceeds of the sale (after defraying thereou penses of the sale) shall be applied in payment to the plaint the said sums of Rs. x and Rs. y and such subsequent int and costs as may be allowed by the Court, and that the bal if any be paid to the second defendant

(5) That if the net proceeds of the sale are insufficient to the said sums interest and costs in full, the plaintiff shall l liberty to apply for a personal decree for the amount of the lance

No 9

DECREE FOR SALE.—SUB MORTGAGEE V MORTGAGEE A MORTGAGOR THE AMOUNT OF THE ORIGINAL MORT-GAGE EXCEEDING THAT OF THE SUB-MORTGAGE

(*Title*)

[Insert declarations of the amounts due to the plaintiff and to the first defendant Rs. y as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall l liberty to pay into Court the said sums of Rs. x and Rs. y resp tively on or before the day of 19 and upon either of the payments being made the plaintiff sh

iver up, etc. (as in Form No. 4), and thereupon the the sum of . x shall be paid to the plaintiff.

(2) In the event of payment by the second defendant as resaid the first defendant shall also deliver up etc. (as in Form . 4,) and thereupon the residue (after payment to the plaintiff aforesaid) shall be paid to the first defendant.

(3) In default of payment by the first and second defendants aforesaid the mortgaged property or a sufficient part thereof all be sold, and the pr[illegible] e expenses of the s[illegible] st in payment to the [illegible] bsequent interest and [illegible] interest shall not [illegible] to the first defen- [illegible] nt of the excess of s y over Rs x and such subsequent interest and costs as afore- id ; and that the balance, if any, be paid to the second defen- ant

(4) In the event of payment by the first defendant and in de- ult of payment by the second defendant as aforesaid, the first efendant shall be at liberty to apply for the sale of the mortga- ed property, and there upon the same or a sufficient part thereof hall be sold,, and the net sale-proceeds shall be applied in pay- ent to the first defendant of the said sum of Rs y and such urther interest and costs as may be allowed by the Court and he balance, if any, shall be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay he aforesaid sums with further interest and costs the plaintiff or he first defendant, as the case may be, shall be at liberty to apply or a personal decree for the amount of the balance

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No 10.

FINAL DECREE FOR FORCLOSURE (O 34, r 3)

(Title)

Upon reading the decree passed in the above suit on the day of 19 , and the applica-

applied, first in payment to the first defendant of the said sum Rs x and such subsequent interest and costs as may be allowed by the Court. Secondly, in payment to the plaintiff of the said sum Rs y and such subsequent interest and costs as aforesaid; and that the balance, if any, be paid to the second defendant.

(3) That if the plaintiff shall pay the said sum of Rs x into Court on or before the day of 19 , the second defendant shall be at liberty to pay into Court the said sum and the sum of Rs y on or before the day of 19 , and thereupon the plaintiff shall deliver up etc (as in Form No 4)

(4) That if the plaintiff shall pay the said sum as aforesaid but the second defendant shall fail to pay the said sums as aforesaid the mortgaged property or a sufficient part thereof shall be sold, and the proceeds of the sale (after defraying thereout the expenses of the sale) shall be applied in payment to the plaintiff of the said sums of Rs x and Rs y and such subsequent interest and costs as may be allowed by the Court, and that the balance, if any, be paid to the second defendant.

(5) That if the net proceeds of the sale are insufficient to pay the said sums interest and costs in full, the plaintiff shall be at liberty to apply for a personal decree for the amount of the balance.

No 9

DECREE FOR SALE —SUB MORTGAGEE v MORTGAGEE AND MORTGAGOR THE AMOUNT OF THE ORIGINAL MORTGAGE EXCEEDING THAT OF THE SUB-MORTGAGE

(Title)

[Insert declarations of the amounts due to the plaintiff Rs x and to the first defendant Rs y as in Form No. 7.]

And it is decreed as follows —

(1) The first defendant and the second defendant shall be at liberty to pay into Court the said sums of Rs. x and Rs y respectively on or before the day of 19 and upon either of the payments being made the plaintiff shall

eliver up etc (as in Form No 4), and thereupon the the sum of s. x shall be paid to the plaintiff.

(2) In the event of payment by the second defendant as foresaid the first defendant shall also deliver up etc. (as in Form No 4,) and thereupon the residue (after payment to the plaintiff s aforesaid) shall be paid to the first defendant.

(3) In default of payment by the first and second defendants s aforesaid the mortgaged property or a sufficient part thereof hall be sold, and the proceeds of the sale (after deducting thereout he expenses of the sale) shall be paid into Court and applied irst in payment to the plaintiff of the said sum of Rs. x and such ubsequent interest and costs as may be allowed by the Court (but o that the aggregate amount of principal and interest shall not exceed the amount of principal and interest due to the first defen- [illegible] first defendant of the excess of [illegible] ent interest and costs as afore- [illegible] be paid to the second defen- [illegible]

(4) In the event of payment by the first defendant and in default of payment by the second defendant as aforesaid, the first defendant shall be at liberty to apply for the sale of the mortgaged property, and there upon the same or a sufficient part thereof shall be sold,, and the net sale-proceeds shall be applied in payment to the first defendant of the said sum of Rs y and such further interest and costs as may be allowed by the Court, and the balance, if any, shall be paid to the second defendant

(5) That if the net proceeds of the sale are insufficient to pay the aforesaid sums with further interest and costs the plaintiff or the first defendant, as the case may be, shall be at liberty to apply for a personal decree for the amount of the balance.

No 10.

FINAL DECREE FOR FORCLOSURE (O 34, r. 3)

(Title)

Upon reading the decree passed in the above suit on the day of 19 , and the applica-

tion of the plaintiff dated the day of 19, or after hearing pleader for the plaintiff and p der for the defendant, and it appearing that the payment direct ed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgage property set out and described in the schedule hereunto annex

[Where the defendant is in possession add *and shall put plaintiff in possession of the said property*]

Schedule.

Description of the mortgaged property

No 11

DECREE AGAINST MORTGAGOR PERSONALLY (*O 34 r 6*)

(*Title.*)

Whereas the net proceeds of the sale held under the fi decree for sale passed in this suit on the day of 19 , and now in Court to the credit of this suit, amount t Rs *y*, and there is now due to the plaintiff the sum of Rs mentioned in the said decree together with the further sum Rs interest thereon at the rate of 6 per cent per annu from the day of 19 , to this day, an also the sum of Rs for his costs of this suit subsequen to the decree, making a balance due to the plaintiff of Rs And whereas it appears to this Court that the defendant is perso nally liable for the said balance

It is hereby decreed as follows :—

(1) That the said sum of Rs. *y* be paid out of Court to th plaintiff

(2) [illegible] plaintiff the said sum [illegible] per annum

No. 12.

DECREE FOR RECTIFICATION OF INSTRUMENT.

(Title.)

It is hereby declared that the , dated the y of 19 , does not truly express the intention of : parties to such .

And it is decreed that the said be rectified by .

No. 13.

DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.

(Title.)

It is hereby declared that the , dated the y of 19 , and made between and , void as against the plaintiff and all other the creditors, if any the defendant .

No 14.

INJUNCTION AGAINST PRIVATE NUISANCE.

(Title.)

Let the defendant , his agents, servants and orkmen, be perpetually restrained from burning, or causing to [illegible] on the defendant's plot of land marked B in

[illegible]

No. 15

INJUNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.

(Title.)

Let the defendant , his contractors, agents and workmen, be perpetually restrained from continuing to erect upon his premises in any house or building of a greater height than the buildings which formerly stood upon his

tion of the plaintiff dated the day of] after hearing pleader for the plaintiff and pleader for the defendant, and it appearing that the payment directed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgaged property set out and described in the schedule hereunto annexed

[Where the defendant is in possession add *and shall put the plaintiff in possession of the said property*]

Schedule.

Description of the mortgaged property

No. 11

DECREE AGAINST MORTGAGOR PERSONALLY (O 34 r 6.)

(Title.)

Whereas the net proceeds of the sale held under the final decree for sale passed in this suit on the day of 19 , and now in Court to the credit of this suit, amount to Rs y, and there is now due to the plaintiff the sum of Rs x mentioned in the said decree together with the further sum of Rs interest thereon at the rate of 6 per cent per annum from the day of 19 , to this day, and also the sum of Rs for his costs of this suit subsequent to the decree, making a balance due to the plaintiff of Rs z: And whereas it appears to this Court that the defendant is personally liable for the said balance

It is hereby decreed as follows :—

(1) That the said sum of Rs. y be paid out of Court to the plaintiff

(2) That the defendant do pay to the plaintiff the said sum of Rs. z with interest thereon at the rate of 6 per cent per annum from this day to the date of realization of the said sum.

No. 12.

DECREE FOR RECTIFICATION OF INSTRUMENT.

(*Title.*)

is hereby declared that the , dated the f 19 , does not truly express the intention of arties to such .
nd it is decreed that the said be rectified by .

No. 13.

DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.

(*Title.*)

is hereby declared that the , dated the f 19 , and made between and , d as against the plaintiff and all other the creditors, if any e defendant .

No 14.

INJUNCTION AGAINST PRIVATE NUISANCE.

(*Title.*)

et the defendant , his agents, servants and men, be perpetually restrained from burning or causing to

---

No. 15

UNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.

(*Title.*)

Let the defendant , his contractors, agents and kmen, be perpetually restrained from continuing to erect n his premises in any house or building of a ter height than the buildings which formerly stood upon his

tion of the plaintiff dated the day of 19, and after hearing pleader for the plaintiff and pleader for the defendant, and it appearing that the payment directed by the said decree has not been made :

It is hereby decreed as follows :—

That the defendant and all persons claiming through or under him be debarred from all right to redeem the mortgaged property set out and described in the schedule hereunto annexed.

[Where the defendant is in possession add *and shall put the plaintiff in possession of the said property.*]

Schedule.

Description of the mortgaged property

No. 11

DECREE AGAINST MORTGAGOR PERSONALLY (O 34 r 6)

(Title.)

Whereas the net proceeds of the sale held under the final decree for sale passed in this suit on the day of 19 , and now in Court to the credit of this suit, amount to Rs *y*, and there is now due to the plaintiff the sum of Rs *z* ... the further sum of ... per cent. per annum ... to this day, and also the sum of Rs for his costs of this suit subsequent to the decree ... plaintiff of Rs *z* ...

And ...

nally

It is hereby decreed as follows :—

(1) That the said sum of Rs. *y* be paid out of Court to the plaintiff.

(2) That the defendant do pay to the plaintiff the said sum of Rs. *z* with interest thereon at the rate of 6 per cent per annum from this day to the date of realization of the said sum.

No. 12.

DECREE FOR RECTIFICATION OF INSTRUMENT.

(*Title.*)

is hereby declared that the , dated the
f 19 , does not truly express the intention of
arties to such .
nd it is decreed that the said be rectified by .

No. 13

DECREE TO SET ASIDE A TRANSFER IN FRAUD OF CREDITORS.

(*Title*)

: is hereby declared that the , dated the
of 19 , and made between and ,
id as against the plaintiff and all other the creditors, if any
e defendant .

No 14.

INJUNCTION AGAINST PRIVATE NUISANCE.

(*Title.*)

et the defendant , his agents, servants and
:men, be perpetually restrained from burning, or causing to
urnt, any bricks on the defendant's plot of land marked B in
unnexed plan, so as to occasion a nuisance to the plaintiff as
owner or occupier of the dwelling-house and garden mentioned
ie plaint as belonging to and being occupied by the plaintiff.

No. 15.

JUNCTION AGAINST BUILDING HIGHER THAN OLD LEVEL.

(*Title.*)

Let the defendant , his contractors, agents and
kmen, be perpetually restrained from continuing to erect
n his premises in any house or building of a
ater height than the buildings which formerly stood upon his

said premises and which have been recently pulled down, so in such manner as to darken, injure or obstruct such of the plaintiff's windows in his said premises as are ancient lights

No. 16

INJUNCTION RESTRAINING USE OF PRIVATE ROAD

(*Title.*)

Let the defendant , his agents, servants and workmen, be perpetually restrained from using or permitting to be used any part of the lane at , the soil of which belongs to the plaintiff, as a carriage-way for the passage of carts, carriages or other vehicles, either going to or from the ... marked B in the annexed plan or for any purpose whatsoever

No. 17

PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT.

(*Title*)

It is ordered that the following accounts and inquiries be taken and made, that is to say :—

In creditor's suit—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees—

2 That an account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

3 Th[illegible] of what, or t[illegible] t-of kin (or one

[After the first paragraph, the decree will, where necessary order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to enquire and take an account of creditors will follow the first paragraph

d such of the others as may be necessary will follow, omitting e first formal words. The form is continued as in a creditor's it.

4. An account of the funeral and testamentary expenses

5. An account of the moveable property of the deceased come the hands of the defendant, or to the hands of any other person his order or for his use.

6. An inquiry what part (if any) of the moveable property the deceased is outstanding and undisposed of.

7. And it is further ordered that the defendant do, on or efore the day of next pay into Court l sums of money which shall be found to have come to his hands, r to the hands of any person by his order or for his use.

8 And that if the * sha'll find it necessary for arrying out the objects of the suit to sell any part of the moveable roperty of the deceased, that the same be sold accordingly, and he proceeds paid into Court

9. And that Mr E. F. be receiver in the suit (*or* proceeding), hall receive and get in all outstanding debts and outstanding noveable property of the deceased, and pay the same into the hands of the † (and shall give security by bond for the due performance of his duties to the amount of rupees)

10. And it is further ordered that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say—

(*a*) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death ;

(*b*) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased or any part thereof ,

(*c*) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of

---

*Here insert name of proper officer

† Here insert name of proper officer.

the priorities of such of the incumbrancers as s[illegible]
consent to the sale hereinafter directed.

11 And that the immoveable property of the deceased, o[r so]
much thereof as shall be necessary to make up the fund in Co[urt]
sufficient to carry out the object of the suit, be sold with the [illegible]
[illegible] (if any) of s[illegible]
, the

12 And it is ordered that G. H. shall have the conduct [of]
the sale of the immoveable property, and shall prepare the co[ndi-]
tions and contracts of sale subject to the approval of the
and that in case any doubt or difficulty shall arise the pa[pers]
shall be submitted to the judge to settle.

13 And it is further ordered that, for the purpose of [the]
inquiries hereinbefore directed, the *shall advertise [in]
the newsp[illegible] the Court, or sh[all]
make suc[h illegible] [a]ppear to [illegible]
[in]quiries.

14. And it is ordered that the above inquiries and accounts [be]
made and taken and that all other acts ordered to be done [be]
completed, before the day of , and t[hat]
the *do certify the result of the inquiries, and the accou[nts]
and that all other acts ordered are completed, and have his ce[rti-]
ficate in that behalf ready for the inspection of the parties [on]
the day of .

15. And, lastly, it is ordered that this suit [or proceed[ing]]
stand adjourned for making final decree to the
day of .

[Such part only of this decree is to be used as is applicable
to the particular case.]

No. 18.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGAT[EE].

(Title.)

1. It is ordered that the defendant do, on or bef[ore]
the day of pay into Court the sum of [illegible]

* Here insert name of proper officer.

, the balance by the said certificate found to be due the said defendant on account of the estate of , estator, and also the sum of Rs. for interest, at ate of Rs. per cent. per annum, from the f to the day of , amounting together to the sum of Rs.

Let the *of the said Court tax the costs of the

(a) The costs of the plaintiff to Mr. , his attorney [or pleader] or, and the costs of the defendant to Mr , his attorney [or pleader].

(b)

*together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them

3. And if there should then be any residue, let the same be to the residuary legatee

No. 19.

PRELIMINARY DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

(Title.)

1. It is declared that the defendant is personally liable to pay legacy of Rs bequeathed to the plaintiff;

* Here insert name of proper officer.

2 And it is ordered that an account be taken of what
for principal and interest on the said legacy ;

3 And it is also ordered that the defendant do within
weeks after the date of the certificate of the *pay t
plaintiff the amount of what the *shall cert
due for principal and interest ,

4 And it is ordered that the defendant do pay the pl
his costs of suit, the same to be taxed in case the parties diffe

---

No 20

FINAL DECREE AN ADMINISTRATION-SUIT BY NEXT OF

(Title)

1 Let the of the said Court tax the costs
plaintiff and defendant in this suit and let the amount o
said plaintiff's costs when so taxed, be paid by the defenda
the plaintiff out of the sum of Rs ,the balance by the
certificate found to be due from the said defendant on accou
the personal estate of E F, the intestate, within one week
the taxation of the said costs by the said *and let
defendant retain for her own use out of such sum her costs, w
taxed.

2 And it is ordered that the residue of the said sum of
after payment of the plaintiff's and defendant's
as aforesaid be paid and applied by defendant as follows —

(a) Let the defendant, within one week after the taxation
the said costs by the *as aforesaid
one-third share of the said residue to the plaintiff
B and C D, his wife in her right as the sister
one of the next-of-kin of the said E F, the intes

(b) Let the defendant retain for her own use one other th
share of the said residue as the mother and one
the next-of kin of the said E. F., the intestate

(c) And let the defendant, within one week after the taxa
of the said costs by the *as aforesaid
the remaining one-third share of the said residue
G H, as the brother and the other next-of kin
the said E F, the intestate.

---

* Here insert name of proper officer.

No 21.

RELIMINARY DECREE IN A SUIT FOR DISSOLUTION OF PARTNERSHIP AND TAKING OF PARTNERSHIP ACCOUNTS.

(*Title.*)

It is declared that the proportionate shares of the parties in the tnership are as follows —

It is declared that this partnership shall stand dissolved [or ill be deemed to have been dissolved] as from the y of , and it is ordered that the dissolution thereof from that day be advertised in the Gazette, etc.

And it is ordered that be the receiver of the rtnership estate and effects in this suit and do get in all the tstanding book-debts and claims of the partnership

And it is ordered that the following accounts be taken .—

1 An account of the credits, property and effects now be-nging to the said partnership ,

2. An account of the debts and liabilities of the said partner-hip ,

3 An account of all dealings and transactions between the laintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A) and not disturbing any subsequent settled accunts

heretofore mention- that the

may on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed before the day of and that the do certify the result of the accounts, and that all other acts are completed, and

* Here insert name of proper officer.

have his certificate in that behalf ready for the inspectio parties on the day of

And, lastly, it is ordered that this suit stand adjou making a final decree to the day of

No. 22.

FINAL DECREE IN A SUIT FOR DISSOLUTION OF PAR SHIP AND THE TAKING OF PARTNERSHIP ACCOUN

(*Title.*)

It is ordered that the fund now in Court, amounting sum of Rs , be applied as follows :—

1 In payment [illegible] in the certificate of t [illegible]

2. In payment [illegible] ing to Rs [illegible]

[*These c* [illegible]

3. In [illegible] as his sha [illegible] being the [illegible] Court to the defendant [illegible] p asset [illegible] s. be ; [illegible] paym the sum of Rs. certified to be due to him pect of the partnership-accounts.]

4. And that the defendant [*or* plaintiff] do on or bef day of pay to the plain defendant] the sum of Rs. being the balance of t sum of Rs. due to him, which m remain due.

No. 23.

DECREE FOR RECOVERY OF LAND AND MESNE PROF

(*Title.*)

It is hereby decreed as follows .—

(1) That the defendant do put the plaintiff in posses the property specified in the schedule hereunto annexed.

* Here insert name of proper officer.

(1) That the defendant do pay to the plaintiff the sum of Rs. with interest thereon at the rate of per cent per annum to the date of realization on account of mesne profits which have accrued due prior to the institution of the suit.

Or

(2) That an inquiry be made as to the amount of mesne profits which have accrued due prior to the institution of the suit.

(3) That an inquiry be made as to the amount of mesne profits from the institution of the suit until [the delivery of possession to the decree-holder] [the relinquishment of possession by the judgment debtor with notice to the decree-holder through the Court] [the expiration of three years from the date of the decree].

APPENDIX E.

EXECUTION.

No. 1.

NOTICE TO SHOW CAUSE WHY A PAYMENT OR ADJUSTMENT SHOULD NOT BE RECORDED AS CERTIFIED. O. 21 r

(Title.)

To

WHEREAS in execution of the decree in the above-named has applied to this Court that the sum of Rs. recoverable under the decree has been paid/adjusted and should be recorded as certified this is to give you notice that you are to appear before this Court the day of 19 , to show cause why the payment/adjustment aforesaid should not be recorded as certified.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No 2.

PRECEPT (Section 46)

(Title.)

Upon hearing the decree-holder it is ordered that this precept be sent to the Court of at under section 46 of the Code of Civil Procedure 1908, with direction to attach the property specified in the annexed schedule and to hold the same pending any application which may be made by the decree-holder for execution of the decree.

Schedule.

Dated the day of 19 *Judge*

No. 3

ORDER SENDING DECREE FOR EXECUTION TO ANOTHER COURT. (O. 21 r. 6.)

(*Title.*)

WHEREAS the decree-holder in the above suit has applied to Court for a certificate to be sent to the Court of at for execution of the decree in the above suit by the Court, alleging that the judgment-debter resides or has proty within the local limits of the jurisdiction of the said Court, it is deemed necessary and proper to send a certificate to the Court under Order XXI, rule 6 of the Code of Civil cedure, 1908, it is

Ordered

That a copy of this order be sent to with a copy the decree and of any order which may have been made for cution of the same and a certificate of non-satisfaction

Dated the 19

Judge

IV Q

No. 4

ERTIFICATE OF NON-SATISFACTION OF DECREE (O. 21. r 6)

(*Tittle*)

Certified that no (1) satisfaction of the decree of this Court in uit No of 19 , a copy which is reunto attached, has been obtained by execution within the risdiction of this Court

Dated the day of 19 .

Judge

(1) If partial strike out "no" and state to what extent

I declare that what is stated herein is true to the best of my knowledge and belief.

Signed , *Decree-holder*

Dated the day of 19 .

[When attachment and sale of immoveable property is sought

Description and Specification of Property

The undivided one-third share of the judgment-debtor in house situated in the village of value Rs. 10 bounded as follows:—

East by G's house west by H's house south by public road north by private lane and J's house.

I declare that what is stated in the above description is true to the best of my knowledge and belief, and so far as I have been able to ascertain the interest of the defendant in the property therein specified

Signed *Decree-holder*

No. 7

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE

(O 21. r 22.)

(Title)

To

WHEREAS

has made application to this Court for execution of decree in Suit No. of 19 on the allegation that the said decree has been transferred to him by assignment, this is to give you notice that you are to appear before this Court

on the day of

19 , to show cause why

execution should not be granted

Given under my hand and the seal of the Court, this

day of 19

Judge

No 8

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN EXECUTION OF A DECREE FOR MONEY (O 21, r 30.)

(Title)

)

The Bailiff of the Court

Whereas was ordered by decree of this Court passed on the day of 19 in Suit No of 19 , to pay to the plaintiff the sum of Rs as noted in the margin, an whereas the said sum of Rs has not been paid , These are to command you to attach the moveable property of the said as set forth in the schedule hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs together with Rs the costs of this attachment to hold the same until further orders from this Court

DECREE		
incipal		
terest		
osts		
osts execution		
urther interest		
Total		

You are further

he

ment certifying th

een executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, the day of 19 .

Schedule

July

No. 9

WARRANT FOR SEIZURE OF SPECIFIC MOVEABLE PROPERTY ADJUDGED BY DECREE. (O 21, r. 31.)

(Title)

To

The Bailiff of the Court.

WHEREAS was ordered by decree of this Court passed on the day of 19 , in Suit No. of 19 , to deliver to the plaintiff the moveable property (or share in the moveable property) specified in the schedule hereunto annexed, and whereas the said property (or share) has not been delivered,

These are to command you to seize the said moveable property (or a share of the said moveable property) and to deliver it to the plaintiff or to such person as he may appoint in his behalf

GIVEN under my hand and the seal of the Court, this day of 19

Schedule.

No. 10.

NOTICE TO STATE OBJECTIONS TO DRAFT OF DOCUMENT (O 21. r. 34)

(Title.)

To

TAKE notice that on the day of 19 the decree-holder in the above suit presented an application to this Court that the Court may execute on your behalf a deed of

ereof a draft is hereunto annexed, of the immoveable property
ecified hereunder, and that the day of 19
appointed for the hearing of the said application; and that
1 are at liberty to appear on the said day and to state in writing
y objections to the said draft.

Description of Property.

GIVEN under my hand and the seal of the Court this day of 19

Judge.

No. 11

ARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, ETC (O. 21, r. 35)

(Title)

)

The Bailiff of the Court

WHEREAS the undermentioned property in the occupancy of
s been decreed to the plaintiff in this suit; You are hereby
rected to put the said in possession of the same
d you are hereby authorized to remove any person bound by
e decree who may refuse to vacate the same

GIVEN under my hand and the seal of the Court, this day of 19

Schedule

Judge

No 12

NOTICE TO SHOW CAUSE WHY WARRANT OF ARREST SHOULD NOT ISSUE (O 21, r, 37)

(Title.)

'o

WHEREAS has made application to this
'ourt for execution of decree in suit No. of 19 by
rrest and imprisonment of your person, you are hereby required

to appear before this Court on the day of 19 , to show cause why you should not be committed to civil prison in execution of the said decree.

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No. 13

WARRANT OF ARREST IN EXECUTION. (O 21 r. 38)

(*Title.*)

To

The Bailiff of the Court

WHEREAS was adjudged by a decree of the Court in Suit No of 19 dated the day of 19 , to pay to the decree-holder the sum of Rs as noted in the margin, and whereas the said sum of Rs has not been paid to the said decree-holder in satisfaction of the said decree, these are to command you to arrest the said judgment-debtor and unless the said judgment-debtor shall pay to you the said sum of Rs together with Rs for the costs of executing this process, to bring the said defendant before the Court with all convenient speed. You are further commanded to return this warrant on or before the day of 19 , with an endorsement certifying the day on which and manner in which it has been executed or the reason why it has not been executed.

Principal		
Interest		
Costs ..		
Execution		
Total ..		

GIVEN under my hand and the seal of the Court, this
day of 19

Judge.

No 14

WARRANT OF COMMITTAL OF JUDGMENT-DEBTOR TO JAIL (O. 21 r 40.)

(Title

o

The Officer in charge of Jail at

WHEREAS who been brought before this
ourt this day of 19 , onder
warrant in execution of a decree which was made and pronoun-
ed by the said Court on the day of
9 , and by which decree it was ordered that the said
hould p
beyed t
ischarg
King-Emperor of India, commanded and required to take and
eceive the said into the civil prison and keep
im imprisoned therein fo

isfied, or the said
e released according to the terms and provisions of section 58 of
he Code of Civil Procedure, 1908 , and the Court does hereby
ix annas per diem as the rate of the monthly
llowance for the subsistence of the said
luring his confinement under this warrant of committal

GIVEN under my signature and the seal of this Court, this
lay of 19

Judge

No. 15.

ORDER FOR THE RELEASE OF A PERSON IMPRISONED IN EXECUTION OF DECREE. (Sections 58, 59)

(*Title*)

To

The Officer in charge of the Jail at

UNDER orders passed this day, you are hereby directed to set free judgment-debtor now in your custoday.

Dated

Judge

No 16

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF (O 21, r. 46.)

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 19 in Suit No of19 in favour of for Rs. ; It is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from the following property in the possession of the said , that is to say, to which the defendant is entitled, subject to any claim of the said and the said ... d and restrained ... delivering th

GIVEN under my hand and the seal of the Court, this
y of 19 .

Judge.

No. 17.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS SECURED BY NEGOTIABLE INSTRUMENTS (O. 21, r. 46)

(*Title*)

o

WHEREAS
is failed to satisfy a decree passed against on the day of 19 , in Suit No of 19
n favour of , for Rs. , It is ordered that
strained, until
you a certain
aid defendant,
, be, and
ou are hereby, prohibited and restrained, until the further order f this Court, from making payment of the said debt, or any part hereof, to any person whomsoever or otherwise than into this Court.

GIVEN under my hand and the seal of the Court, this
lay of 19

Judge.

No. 18

ATTACHMENT IN EXECUTION

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN THE CAPITAL OF A CORPORATION (O 21, r 46.)

(*Title*)

To Defendant, and to
, Secretary of Corporation

WHEREAS has failed to satisfy a decree passed against on the day of 19 ,

in Suit No of 19 , in favour of Rs , It is ordered that you, the defendant, be and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of shares in the aforesaid Corporation namely, , or from receiving payment of any dividends thereon, and you, , the Secretary of the said Corporation, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No. 19

ORDERED TO ATTACH SALARY OF PUBLIC OFFICER OR SERVANT OF RAILWAY COMPANY OR LOCAL AUTHORITY

(O. 21, r. 48.)

(Title.)

To

WHEREAS , judgement-debtor in the above-named case is a *(describe the office of judgement-debtor)* receiving his salary *(or allowances)* at your hands, and whereas , decree-holder in the said case, has applied in this Court for the attachment of the salary *(or allowances)* of the said to the extent of due to him under the decree; You are hereby required to withhold the said sum of from the salary of the said in monthly instalments of and to remit the said sum *(or monthly instalments)* to this Court.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No 20.

ORDER OF ATTACHMENT OF NEGOTIABLE INSTRUMENT

(O. 21, r. 51)

(Title)

The Bailiff of the Court

WHEREAS an order has been passed by this Court on the day of 19 , for the attachment of , You are hereby directed to seize the said l bring the same into Court.

GIVEN under my hand and the seal of the Court, this y of 19

Judge.

No 21

ATTACHMENT

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE CUSTODY OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT. O 21, r 52

(Title)

R,

The plaintiff having applied, under rule 22 of Order XXI of e Code of Civil Procedure, 1908, for an attachment of certain oney now in your hands (*here state how the money is supposed be in the hands of the person addressed, on what account, etc.*), request that you will hold the said money subject to the further der of this Court

I have the honour to be

SIR,

Your most obedient Servant

Judge.

Dated the day of 19

No. 22.

NOTICE OF ATTACHMENT OF A DECREE TO THE COURT WHICH PASSED IT. (O 21, r. 53.)

(*Title*,)

To

The Judge of the Court

Sir,

I have the honour to inform you that the decree obtained in your Court on the day of 19 , by in Suit No of 19 , in which he was and was has been attached by this Court on the application of the in the suit specified above ... of ... hat ... the s... ught ...

be executed on by his judgement-debtor.

I have the honour, etc.,

Date the day of 19 .

No. 23

NOTICE OF ATTACHMENT OF A DECREE TO THE HOLDER OF THE DECREE. (O 21, r 53)

(*Title.*)

To

WHEREAS an application has been made in this Court by the decree-holder in the above suit for the attachment of a decree obtained by you on the day of 19 , in the Court of in Suit No. of 19 , in which was and was ; It is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from transferring or charging the same in any way.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No 24.

ATTACHMENT IN EXECUTION

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY (O 21, r 54.)

(Title)

To

Defendant.

Whereas you have failed to satisfy a decree passed against you on the day of 19 , in Suit No of 19 , in favour of for Rs ; It is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from [illegible] property specified in the schedule [illegible] otherwise, and that all persons [illegible] hibited from receiving the same

[illegible] seal of the Court, this day of 19 .

Judge

Schedule

No 25

ORDER FOR PAYMENT TO THE PLAINTIFF, ETC., OF MONEY, ETC., IN THE HANDS OF A THIRD PARTY (O 21, r. 56)

(Title)

To

Whereas the following property has been attached in execution of a decree in Suit No of 19 , passed on the day of 19 , in favour of , for Rs. , It is ordered that the property so attached, consisting of Rs in money

and Rs. in currency-notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you, the said ,to .

GIVEN under my hand the seal of and the Court, this day 19

Judge

No. 26.

NOTICE TO ATTACHING CREDITOR. (O. 21, r 58

(Title)

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Suit No. of 1 , this is to give you notice to appear before this Court on the day of 19 , either in person or by a pleader of the Court duly instructed to support your claim, as attaching creditor

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No. 27

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY. (O. 21, r. 66)

(Title.)

To

The Bailiff of the Court

THESE are to command you to sell by auction, after giving days previous notice, by affixing the same in the

Court-house, and after making due proclamation, the property attached under a warrant from this Court, dated the day of 19 , in execution of a decree in favour of in Suit No of 19 ' or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied

You are further commanded to return this warrant on or before the day of 19 ,with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

No 28

NOTICE OF THE DAY FIXED FOR SETTLING A SALE PROCLAMATION (O 21, r 66)

(*Title*)

To

Judgment-debtor.

WHEREAS in the above-named suit the decree-holder has applied for the sale of , You are hereby informed that the day of 19 has been fixed for settling the terms of the proclamation of sale.

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

No 29.

PROCLAMATION OF SALE O 21, r 66)

(*Title*)

To

Notice is hereby given that, under rule 64 of Order XXI of the Code of Civil Procedure, 1908, an order has been passed by

this Court for the sale of the attached property mentioned in the annexed schedule, in satisfaction of the claim of the decree holder

Suit No of 19 , decided by the of in which was plaintiff and was defendant.	in the suit (1) mentioned in the margin, amounting with costs and interest up to date of sale to the sum of

The sale will be by public auction, and the property will be put up for sale in the lots specified in the schedule The sale will be of the property of the judgement-debtors above-named as mentioned in the schedule below, and the liabilities and claims attaching to the said property, so far as they have been ascertained, are those specified in the schedule against each lot

In the absence of any order of postponement, the sale will be held by at the monthly sale commencing at o'clock on the at
In the event, however, of the debt above specified and of the costs of the sale being tendered or paid before the knocking down of any lot, the sale will be stopped.

At the sale the public generally are invited to bid, either personally or by duly authorized agent No bid by, or on behalf of, the judgment creditors above-mentioned,, however, will be accepted, nor will any sale to them be valid without the express permission of the Court previously given The following are the further

Conditions of Sale.

1 The particulars specified in the schedule below have been stated to the best of the information of the Court, but the Court will not be answerable for any error, mis-statement or omission in this proclamation

2 The amount by which the biddings are to be increased shall be determined by the officer conducting the sale In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.

3. the purchaser of any ualified to bid and pr f the Court or officer holding the sale to decline acceptance of the highest bid

hen the price offered appears so clearly inadequate as to make advisible to do so.

4. For reasons recorded, it shall be in the discretion of the ficer conducting the sale to adjourn it subject always to the rovisions of rule 69 of Order XXI.

5. In the case of moveable property, the price of each lot hall be paid at the time of sale or as soon after as the officer olding the sale directs, and in default of payment the property hall forthwith be again put up and re-sold

6 In the case of immoveable property, the person declared o be the purchaser shall pay immediately after such declaration deposit of 25 per cent on the amount of his purchase-money to he officer conducting the sale, and in default of such deposit the roperty shall forthwith be put up again and re-sold.

7. The full amount of the purchase-money shall be paid by he purchaser before the Court closes on the fifteenth day after he sale of the property, exclusive of such day, or if the fifteenth lay be a Sunday or other holiday, than on the first office day after the fifteenth day.

8 In default of payment of the balance of purchase-money

to the property or to any part of the sum for which it may be subsequently sold

GIVEN under my hand and the seal of the Court, this
day of 19 .

Judge

Schedule of property.

Number of lot	Description of property to be sold, with the name of each owner where there are more judgment-debtors than one	The revenue assessed upon the estate or part of the estate, if the property to be sold is an interest in an estate or a part of an estate paying revenue to Government	Detail of any incumbrances to which the property is liable.	Claims, if any, which have been put forward to the property, and any other known particulars bearing on its nature and value

No. 30.

ORDER ON THE NAZIR FOR CAUSING SERVICE OF PROCLAMATION OF SALE (O. 21, r. 66)

(*Title*)

To

The Nazir of the Court

WHEREAS an order has been made for the sale of the property of the judgment-debtor specified in the schedule hereunto annexed, and whereas the day of 19 , has been fixed for the sale of the said property, copies of the proclamation of sale are by this warrant made over to you and you are hereby ordered to have the proclamation published

by beat of drum within each of the properties specified in the said schedule, to affix a copy of the said proclamation on a conspicious part of each of the said properties and afterwards on the courts house, and then to submit to this Court a report showing the dates on which and the manner in which the proclamations have been published.

Dated the day of 19 .

SCHEDULE

Judge

No 31.

CERTIFICATE BY OFFICER HOLDING A SALE OF THE DEFICIENCY OF PRICE ON A RE-SALE OF PROPERTY BY REASON OF THE PURCHASER'S DEFAULT
(O. 21, r 71.)

(Title)

Certified that at the re-sale of the property in execution of the decree in the above-named suit, in consequence of default on the part of purchaser, there was a deficiency in the price of the said property amounting to Rs. and that the expenses attending such re-sale amounted to Rs , making a total Rs , which sum is recoverable from the defaulter.

Dated the day of 19

Officer holding the sale.

No. 32

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION (O 21, r. 79.)

(Title.)

To

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of now in

your possession, you are hereby prohibited from delivering possession of the said to any person except the said

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No. 33

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER (O 21, r. 79.)

(Title)

To and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of being debts due from to you

It is ordered that you be, and you are hereby, prohibited from receiving, and you from making payment of the said debt to any person or persons except the said

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge

No. 34

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION (O 21, r 79)

(Title.)

To

and Secretary Corporation

WHEREAS has became the purchaser at a public sale in execution of the decree, in the above suit, of certain shares in the above Corporation, that is to say, of standing in the name of you ; It is ordered that you be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said the purchaser aforesaid, or from receiving any dividends thereon and you Secretary of the said Corporation from permitting any such transfer or making any such payment to any person except the said , the purchaser aforesaid

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge

No 35

CERTIFICATE TO JUDGMENT-DEBTOR AUTHORIZING HIM TO MORTGAGE, LEASE OR SELL PROPERTY.
(O. 21 r 83)

(Title)

WHEREAS in execution of the decree passed in the above suit an order was made on the day of 19 for the sale of the under mentioned property of the judgment-debtor , and whereas the Court has, on the application of the said judgment debtor, postponed the said sale to enable him to raise the amount of the decree by mortgage, lease or private sale of the said property or of some part thereof

This is to certify that the Court doth hereby authorize the said judgment-debtor to make the proposed mortgage, lease or sale within a period of from the date of this certificate, provided that all monies payable under such mortgage, lease or sale shall be paid into this Court and not to the said judgment-debtor

Description of property.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge

No. 36

NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE SET ASIDE. (O. 21, rr. 90, 92)

(Title)

To,

WHEREAS the under-mentioned property was sold on the [illegible] the decree passed [illegible]

[illegible]

in this Court on the day of 19 the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this day of 19

Description of property.

Judge

No. 37.

NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE SET ASIDE. (O. 21, rr. 91, 92.)

(Title)

To

WHEREAS , the purchaser of the under-mentioned property sold on the day of 19

, in execution of the decree passed in the above-named ... rt *to set aside the sale of the said pro-* , the judgment-debtor, had

---

Take notice that if you have any cause to show why the said plication should not be granted, you should appear with your oofs in this Court on the day of 19 ıen the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this y of 19

Description of property.

Judge

No 38.

CERTIFICATE OF SALE OF LAND. O 21, r 94.)

(Title)

THIS is to certify that *has been declared the* urchaser at a sale by public auction on the day of

in execution of decree in this suit, and hat the said sale has been duly confirmed by this Court

GIVEN under my hand and the seal of the Court, this lay of 19

Judge

No. 39

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND
AT A SALE IN EXECUTION. (O, 21, r 95)

(Title)

To

The Bailiff of the Court,
WHEREAS has become the certified purchaser of *at a sale in execution of decree in Suit No of 19*

, You are hereby ordered to put the said , the cert[illegible] purchaser, as aforesaid, in possession of the same

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge

NO 40.

SUMMONS TO APPEAR AND ANSWER CHARGE OF OBSTRUCTING EXECUTION OF DECREE

(O 21, r 92,)

(*Title*)

To

WHEREAS , the decree-holder in the above suit, has complained to this Court that you have res[isted] [*or* obstructed] the officer charged with the execution of the warrant for possession :

You are hereby summoned to appear in this Court on the day of 19 at A.M., to answer the sa[id] complaint

GIVEN under my hand and the seal of the Court this day of 19

Judge

No 41.

WARRANT OF COMMITTAL. (O. 21 r 98)

(*Title.*)

To

The Officer in Charge of the Jail at

WHEREAS the undermentioned property has been decreed t[o] the plaintiff in this suit, and whereas the Court i[s] satisfied that without any just cause resisted [or obstructed] and is still resisting [or obstructing] the said

in obtaining possession of the property, and whereas the said
has made application to this Court that the said
be committed to the civil prison ,

You are hereby commanded and required to take and receive e said into the civil prison and to keep him imprined therein for the period of days.

GIVEN under my hand and the seal of the Court, this ay of 19

Judge.

No 42

AUTHORITY OF THE COLLECTOR TO STAY PUBLIC SALE OF LAND (Section 72)

(Title)

o

Collector of

ir,

In answer to your communication No , dated , representing that the sale in execution of the land situate within your honour to inform you that you r the satisfaction of the said ecree in the manner recommended by you

I have the honour to be,

Sir

Your obedient Servant,

Judge

; You are hereby ordered to put the said the cer-
purchaser as aforesaid, in possession of the same

GIVEN under my hand and the seal of the Court, this day of 19

Judge

NO 40.

SUMMONS TO APPEAR AND ANSWER CHARGE OF OBSTRUCTING EXECUTION OF DECREE

(O 21, r 92,)

(Title)

To

WHEREAS , *the decree*-holder in the above suit, has complained to this Court that you have resisted [*or obstructed*] the officer charged with the execution of the warrant for possession ·

You are hereby summoned to appear in this Court on the day of 19 at A.M., to answer the said complaint

GIVEN under my hand and the seal of the Court this day of 19

Judge

No 41.

WARRANT OF COMMITTAL. (O. 21 r 98)

(Title)

To

The Officer in Charge of the Jail at

WHEREAS the undermentioned property has been decreed to , the plaintiff in this suit, and whereas the Court is satisfied that without any just cause resisted [*or* obstructed] and is still resisting [*or obstructing*] the said

No 2.

CURITY FOR APPEARANCE OF A DEFENDANT ARRESTED BEFORE JUDGMENT. (O 38, r 2.)

(Title.)

WHEREAS at the instance of ' the plaintiff in the e suit, the defendant, has been arrested and ight before the Court ;

And whereas on the failure of the said defendant to show e why he should not furnish security for his appearance, the rt has ordered him to furnish such security

Therefore I have voluntarily become surety and do eby bind myself, my heirs and executors, to the said Court, the said defendant shall appear at any time when called upon le the suit is pending and until satisfaction of any decree that be passed against him in the said suit, and in default of [illegible] itors, to pay to hat may be ad-

Witness my hand at this day of

Witnesses (Signed)

1

2

No. 3.

SUMMONS TO DEFENDANT TO APPEAR ON SURETY'S APPLICATION FOR DISCHARGE (O 38, r. 3.)

(Title)

WHEREAS who became surety on the y of 19 , for your appearance in the above suit, s applied to this Court to be discharged from his obligation :

You are hereby summoned to appear in this Court in per on the day of 19 , at A. M. the said application will be heard and determined.

GIVEN under my hand and the seal of the Court this day of 19

Ju

No 4

ORDER FOR COMMITTAL (O. 38, r. 4)

(*Title*)

To

WHEREAS , plaintiff in this suit, has made application to the Court that security be taken for the appearance , the defendant, to answer any judgment that be passed against him in the suit, and whereas the Court has called upon the defendant to furnish such security, or to offer sufficient deposit in lieu of security, which he has failed to do it is ordered that the said defendant be committed to the civil prison until the decision of the suit; or, if judgment pronounced against him, until satisfaction of the decree

GIVEN under my hand and the seal of the Court, this day of 19

Jud

No 5

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE

(O. 38, r. 5)

(*Title*)

To

The Bailiff of the Court.

WHEREAS has proved to the satisfaction of the Court that the defendant in the above suit

hese are to command you to call upon the said defendant on or before the day of 19 ither to furnish security for the sum of rupees to roduce and place at the disposal of this Court when required or the value thereof, or such portion of the value s may be sufficient to satisfy any decree that may be passed gainst him ; or to appear and show cause why he should not urnish security ; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court , and you are further commanded to return this warrant on or before the lay of 19 , with an endorsement certifying the date on which and the manner in which it has been executed, or the reason why it has not bee executed

GIVEN under my hand and the seal of the Court, this day of 19

Judge

No 6.

SECURITY FOR THE PRODUCTION OF PROPERTY.
(O 38, r 5)

(*Title*)

WHEREAS at the instance of , the plaintiff in the above suit, the defendant, has been directed by the Court to furnish security in the sum of Rs to produce and place at the disposal of the Court the property specified in the schedule hereunto annexed ,

Therefore I have voluntarily become surety and do hereby bind myself, my heirs and executors, to the said Court that the said defendant shall produce and place at the disposal of the Court, when required, the property specified in the said sch[illegible] may be [illegible] long, [illegible] ourt at its order, the said sum of Rs or such sum not exceeding the said sum as the said Court may adjudge

You are hereby summoned to appear in this Court in p.m., on the day of 19 , at A.M. m., the said application will be heard and determined.

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

No 4

ORDER FOR COMMITTAL (O. 38, r. 4)

(*Title*)

To

WHEREAS , plaintiff in this suit, has made application to the Court that security be taken for the appearance of , the defendant, to answer any judgment that may be passed against him in the suit, and whereas the Court has called upon the defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which he has failed to do, it is ordered that the said defendant be committed to the civil prison until the decision of the suit, or, if judgment be pronounced against him, until satisfaction of the decree

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

No 5

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE (O. 38, r. 5)

(*Title.*)

To

The Bailiff of the Court

WHEREAS has proved to the satisfaction of the Court that the defendant in the above suit

d you to call upon the said defendant
re the day of 19
rity for the sum of rupees to
the disposal of this Court when required
e value thereof, or such portion of the value
t to satisfy any decree that may be passed
appear and show cause why he should not
l you are further ordered to attach the said
keep the same under safe and secure custody
er of the Court, and you are further com-
on or before the
an endorsement certifying the date
which it has been executed, or the
ot bee executed

hand and the seal of the Court, this
9

Judge

No. 6

FOR THE PRODUCTION OF PROPERTY.
(O 38, r 5)

(*Title*)

instance of

have voluntarily become surety an
yself, my heirs and executors, to the said Cou
idant shall produce and place at the disposal
required, the property specified in the
ilue of the same, or such portion

Schedule

Witness my hand at this day of 19 .

Witnesses (Signed)

1

2

No. 7.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY. (O 38 r 6)

(Title.)

To

The Bailiff of the Court.

WHEREAS , the plaintiff in this suit, has applied to the Court to call upon , the defendant, to furnish security to fulfil any decree that may be passed against him in the suit and whereas the Court has called upon the said to furnish such security, which he has failed to do These are to command you to attach property of the said and keep the same under safe and secure custody until the further order of the Court; and you are further commanded to return this warrant on or before the day of 19 , with an endorsement certifying the date on which and the manner in which it has been executed, or the reason why it has not been executed

GIVEN under my hand and the seal of the Court, this day of 19

Judge.

No. 8

TEMPORARY INJUNCTIONS (O. 39, r 1)

(Title.)

Upon motion ...

plaint filed in this suit on the day of , *or* the written statement of the said plaintiff filed on the day of] and upon hearing the evidence of

and defer

C. D.] This Court doth order that an injunction be awarded to and workmen the house in ᵊd [*or*, in the itten s aring ndupu iterials is suit or until the further order of this Court

Dated this day of 19

Judge.

[*Where the injunction is sought to restrain the negotiation of note or bill, the ordering part of the order may run thus* :-]

to restrain the defendants and from parting with out of the custody of them any of them or endorsing, assigning or negotiating the promissory note [*or* bill of exchange] in question, dated on or about e , etc., mentioned in the plaintiff's aint [*or* petition] and the evidence heard at this motion until e hearing of this suit or until the further order of this Court

[*In Copyright cases*] to restrain the printing,

[or which is contained in page to page both inclusive] until , etc.,

[In Patent cases] to restrain the defendant C. D., his agent ... any perforated ... of the invention ... tioned, and from counterfeiting, imitating or resembling the said inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, etc.,

[In cases of Trade marks] to restrain the defendant C. D., his servants, agents or workmen, from selling or exposing for sale, or procuring to be sold, any composition or blacking [or as the case may be] described as or purporting to be blacking manufactured by the plaintiff A. B., in bottles having affixed thereto such labels ... etc. ...

... by the plaintiff A. B. ... trade-cards ... ent that any comp... by the defendant ... factured or sold by ..., until the etc.

[To restrain a partner from in any way interfering in the business] to restrain the defendant C. D., his servant and agents, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of ... in the name of the partnership ... debt, buying ... into any ... and from doing or causing to be done, any act, in the name or on the credit of the said partnership-firm of B. and D., or whereby the said partnership-firm can or may in any manner become or be made liable

or for the payment of any sum of money, or for the performance any contract, promise or undertaking until the, etc.

No 9.

APPOINTMENT OF A RECEIVER. (O. 40, r 1)

(*Title.*)

o

WHEREAS has been attached in execution of decree passed in the above suit on the day of , n favour of , You are hereby (subject to your iving security to the satisfaction of the Court) appointed receiver f the said property under Order XL of the Code of Civil Procedure, 1908, with full powers under the provisions of that Order.

You are required to render a due and proper account of your eceipts and disbursements in respect of the said property on You will be entitled to remuneration at the ate of per cent. upon your receipts under the authority of this appointment

GIVEN under my hand and the seal of the Court, this lay of 19

Judge.

No 10

BOND TO BE GIVEN BY RECEIVER (O 40, r. 3.)

(*Title.*)

KNOW all men by these presents, that we and and are jointly and severally bound to of the Court of in Rs to be paid to the said or his successor in office for the time being For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors

and administrators, jointly and severally, by these presents.
Dated this day of 19

Where as a plaint has been filed in this Court by against for the purpose of [*here insert the* ... *of suit*

And whereas the said has been appointed, order of the above mentioned Court, to receive the rents and profits of the immoveable property and to get in the outstanding moveable property of in the said plaint named.

Now the condition of this obligation is such, that if the above bounden shall duly account for all and every sum and sums of money which he shall so receive on account of the rents and profits of the immoveale property, and in respect of the moveable property of the said at such periods as the said C ... the balance which shall ... him the said Con ... then the obligation sh ... force

Signed and delivered by the above bounden in the presence of

Note -If deposit of money is made, the memorandum thereof should follow the terms of the condition of the bond.

APPENDIX G.

APPEAL, REFERENCE AND REVIEW.

No. 1.

MEMORANDUM OF APPEAL., (O. 41, r. 1.)

(Title)

Above named of appeals to the Court at from the decree of in Suit No. of 19 , dated the day of 19 , and sets forth the following nds of objection to the decree appealed from, namely –

No 2

CURITY BOND TO BE GIVEN ON ORDER BEING MADE TO STAY EXECUTION OF DECREE (O 41, r 5)

(Title)

This security bond on stay of execution of decree executed esseth –

That , the plaintiff in Suit No of 19 , having sued , the defendant in this Court and a ee having been passed on the day of 19 the defendant having the

ıg applied to execute decree, the defendant has made an application praying for of execution and has been called upon to furnish security. ordingly I, of my own free will, stand security to the extent ts , mortgaging the properties specified in the edule hereunto annexed, and covenant that if the decree of first Court be confirmed or varied by the Appellate Court said defendant shall duly act in accordance with the decree he Appellate Court and shall pay whatever may be payable him thereunder, and if he should fail therein then any amount

so payable shall be realized from the properties hereby mortgaged and if the proceeds of the sale of the said properties are insufficient to pay the amount due, I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this day of 19 .

Schedule

Witnessed by (Signed)

1

2

No 3

SECURITY BOUND TO BE GIVEN DURING THE PENDENCY OF APPEAL. (O. 41, r 6.)

(*Title*)

To

This security bond on stay of execution of decree executed by witnesseth

That , the plaintiff in Suit No of , having sued , the defendant, in this Court and a decree having been passed on the day of 19 , the defendant having preferred an appeal from the said decree to the Court of the

Now the plaintiff decree-holder has applied for execution of the said decree and has been called upon to furnish security. Accordingly I of my own free will, stand security to the extent of Rs mortgaging the properties specified in the schedule hereunto annexed, and covenant that if the decree of the first Court be reversed or varied by the Appellate Court the plaintiff shall restore any property which may be or has been taken in [illegible] and shall duly act in accordance with [illegible] and shall pay whatever may [illegible] if he should fail therein then [illegible] realized from the properties hereby mortgaged, and if the proceeds of the sale of the said properties are insufficient to pay the amount due

I and my legal representatives will be personally liable to pay the balance. To this effect I execute this security bond this day of 19 .

Schedule.

Witnessed by
1.
2. (Signed)

No. 1

SECURITY FOR COSTS OF APPEAL. (O 41, r. 10)

(Title)

To

The security bond for costs of appeal executed by witnesseth :

This appellant has preferred an appeal from the decree in Suit No. of 19 , against the respondent, and has been called upon to furnish security. Accordingly I, of my own free will, stand security for the costs of the appeal, mortgaging the properties specified in the schedule hereunto annexed. I shall not transfer the said properties or any part thereof, and in the event of any default on the part of the appellant I shall duly carry out any order that may be made against [illegible] Any amount so [illegible] by mortgaged, [illegible] are insuffici- [illegible] sentatives will [illegible] ect I execute this security bond this day of 19 .

Schedule.

Witnessed by
1.
2

(Signed)

No 5.

INTIMATION TO LOWER COURT OF ADMISSION OF APPEA

(O. 41, r. 13.)

(Title.)

To

You are hereby directed to take notice that the
in the above suit, has preferred an appeal to this Court from
decree passed by you therein on the day of 19

You are requested to send with all practicable despatch
material papers in the suit

Dated the day of 19

Judge

No 6.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEAR
OF THE APPEAL (O. 41, r. 14.)

(Title.)

APPEAL from the of the Court of
dated the day of 19

To

Respondent in this
this C
ved by

Court for the hearing of this appeal

If no appearance is made on your behalf, by yourself
pleader, or by some one by law authorized to act for you in
appeal, it will be heard and decided in your absence

GIVEN under my hand and the seal of the Court, this
day of 19

Judge

[Note.—If a stay of execution has been ordered, intima
should be given of the fact on this notice.]

No. 7

NOTICE TO A PARTY TO SUIT NOT MADE A PARTY TO THE APPEAL BUT JOINED BY THE COURT AS A RESPONDENT.
(O. 41, r. 20.)

(Title.)

WHEREAS you were a party in Suit No. of 19 , in the Court of , and whereas the has preferred an appeal to this Court from the decree passed against him in the said suit and it appears to this Court that you are interested in the result of the said appeal:

Th has directed you to has adjourned the of 19 , at If no appearance is made on your behalf on the said day and at the said hour, the appeal will be heard and decided in your absence.

GIVEN under my hand and the seal of the Court, this day of 19 .

Judge.

No. 8

MEMORANDUM OF CROSS OBJECTION. (O. 41, r. 22.)

(Title.)

WHEREAS the has preferred an appeal to the Court at from the decree of in Suit No. of 19 , dated the day of 19 , and whereas notice of the day fixed for hearing the appeal was served on the on the day of 19 , the Cles this memo under rule 22 of Ord and sets forth the fol appealed from namely :--

No. 9.

DECREE IN APPEAL. (O 41, r. 35.)

(Title.)

Appeal No of 19 from the decree of t
Court of dated the day of 19 .

Memorandum of Appeal.

The *Plaintiff. Defendant* above-named appeals to the Court at from the decree of in the above suit, dated the day of 19 , for the follow ing reasons, namely

This appeal coming on for hearing on the day of 19 , before , in the presence of for the appellant and of for the re pondent, it is ordered—

The costs of this appeal as detailed below, amounting to Rs , are to be paid by . The costs of the original suit are to be paid by .

Given under my hand this day of 19 .

Judge

Costs of Appeal

	Appellant	Amount Rs.	a.	p.	Respondent	Amount Rs.	a.	p.
1	Stamp for memorandum appeal				Stamp for power . .			
2	Do for power				Do for petition .			
3	Service of processes				Service of processes , .			
4.	Pleader's fee on Rs				Pleader's fee on Rs . .			
	Total				Total .			

No. 10

APPLICATION TO APPEAL IN FORMA PAUPERIS.
(O 44, r 1)

(*Title*)

I the above-named, present the ccompanying memorandum of appeal from the decree in the ove suit and apply to be allowed to appeal as a pauper

Annexed is a full and true schedule of all the moveable and mmoveable property belonging to me with the estimated value ereof.

Dated the day of 19 .

(*Signed.*)

Note.—Where the application is by the plaintiff he should state hether he applied and was allowed to sue in the Court of first istance as a pauper

— —

No 11

NOTICE OF APPEAL IN FORMA PAUPERIS. (O. 44, r. 1.)

(*Title*)

WHEREAS the above named has applied to be allowed o appeal as a pauper from the decree in the above suit dated the day of 19 , and whereas the lay of 19 has been fixed for hearing the application, notice is hereby given to you that if you desire to show cause why the applicant should not be allowed to appeal as a pauper an opportunity will be given to your doing so on the afore-mentioned date

Given under my hand and the seal of the Court, this day of 19

Judge.

No 12.

NOTICE TO SHOW CAUSE WHY A CERTIFICATE OF APPEAL TO THE KING IN COUNCIL SHOULD NOT BE GRANTED

O. 45, r. 3)

(Title.)

To

Take notice that

has appl [illegible] towards amou[illegible]
or value [illegible] of s[illegible]
tion 110 [illegible] othe[illegible]
wise a fit [illegible]

The day of 9 is fixed for you t[illegible] show cause why the Court should not grant the certificate aske[illegible] for

Given under my hand and the seal of the Court, this day of 19

Registrar

No 13

NOTICE TO RESPONDENT OF ADMISSION OF APPEAL TO THE KING IN COUNCIL. (O. 45, r 8)

(Title.)

To

WHEREAS , the in the above case, has furnished the security and made the deposit required by Order XLV, rule 7, of the Code of Civil Procedure, 1908

Take notice that the appeal of the said to His Majesty in Council has been admitted on the day of 19 .

Given under my hand and the seal of the Court, this day of 19

Registrar

No. 11.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED (O. 47, r. 4)

(Title.)

To

Take notice that has applied to this Court for a review of its decree passed on the day of 19 in the above case. The day of 19 is fixed for you to show cause why the Court should not grant a review of its decree in this case.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

APPENDIX H.

MISCELLANEOUS

No. 1

AGREEMENT OF PARTIES AS TO ISSUES TO BE TRIED

(O 14, r 6)

(Title.)

Whereas we the parties in the above suit, are agreed as to the question of fact [*or of law*] to be decided between us and the point at issue between us is whether a claim founded on bond dated the day of 19 and filed as Exhibit in the said suit, is or is not beyond the statute of limitation (*or state the point at issue whatever it may be*) We therefore severally bind ourselves that, upon the finding of the Court in the negative [*or affirmative*] of such issue will pay to the said the sum of Rupees (or such sum as the Court shall hold to be due thereon) and I, the said will accept the said sum of Rupees (*or such sum as the Court shall hold to be due*) in full satisfaction of my claim on the bond aforesaid [*or*, that upon such finding I, the said will do or abstain from doing, etc., etc.]

Plaintiff.
Defendant.

Witnesses
1.
2
Dated the day of 19 .

No 2.

NOTICE OF APPLICATION FOR THE TRANSFER OF A SUIT TO ANOTHER COURT FOR TRIAL. (SECTION 24)

(Title.)

In the Court of the District Judge of
To No of 19 .

REAS an applination dated the day of

en made to this Court by the
in Suit No. of 19 of
ending in the Court of the at
in which is plaintiff and
is defendant, for the transfer
suit for trial to the Court of the at

u are hereby informed that the day of
19 has been fixed for the hearing of the applica-
when you will be heard if you desire to offer any objection to

iven under my hand and the seal of the Court, this day
19 .

Judge.

No 3

NOTICE OF PAYMENT INTO COURT (O 24, r 2

(*Title.*)

'ake notice that the defendant has paid into Court Rs
and says that that sum is sufficient to satisfy the
ntiff's claim in full

X V. Pleader for the defendant

'o Z, Pleader for the plaintiff

No 4

NOTICES TO SHOW CAUSE GENERAL FORM.)

(*Title*)

WHEEAS above-named
made application to this Court that
You are hereby warned to appear in this
rt in person or by a pleader duly instructed on the

day of
, at o'clock in the forenoon, to show cause against the application, failing wherein, the said application will be heard and determined *exparte*

Given under my hand and the seal of the Court, this
day of 19

Judge

No. 5.

IST OF DOCUMENTS PRODUCED BY $\frac{\text{PLAINTIFF}}{\text{DEFENDANT}}$. O. 13. r. 1)

(*Title.*)

).	Description of document.	Date, if any, which the document bears.	Signature of party or pleader.
	2	3	4

No. 6

IOTICES TO PARTIES OF THE DAY FIXED FOR EXAMINATION OF A WITNESS ABOUT TO LEAVE THE JURISDICTION.
(O. 18 r. 16.)

(*Title.*)

To

plaintiff (*or* defendant)

WHEREAS in the above suit application has been made to the Court by that the examination of , a witness required by the said in the said suit, may be taken immediately; and it has been shown to the Court's satisfaction that the said witness is about to leave the Court's jurisdiction (*or any other good and sufficient cause to be stated*).

Take notice that the examination of the said witness will be taken by the Court on the day of 19 .

Dated the day of 19 .

Judge.

No. 7.

COMMISSION TO EXAMINE ABSENT WITNESS (O. 26, rr 4 & 18)

(*Title.*)

To

WHEREAS the evidence of is required by the in the above suit, and whereas , you are requested to take the evidence on interrogatories [or viva voce] of such witness and you are hereby appointed Commissioner for that purpose The evidence will be taken in the presence of the parties or their agents if in attendance, who will be at liberty to question the witness on the points specified; and you are further requested to make return of such evidence as soon as it may be taken.

Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application.

A sum of Rs. , being your fee in the above, is herewith forwarded.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 8.

LETTER OF REQUEST. (O. 26, r. 5)

(Title.)

(Heading :—To the President and Judges of, etc., etc., *or as the case may be.*)

Whereas a suit is now pending in the
which A. B is plaintiff and C. D is defendant, and in the
id suit the plaintiff claims

(abstract of claim) ;

And whereas it has been represented to the said Court that it
necessary for the purposes of justice and for the due determina-
on of the matters in dispute between the parties, that the follow-
g persons should be examined as witnesses upon oath touching
ich matters, that is to say

E. F, of
G H, of and
I J,, of

And it appearing that such witnesses are resident within the
risdiction of your honourable Court,

Now I as the of the said Court have the honour
request, and do hereby request, that for the reasons aforesaid
id for the assistance of the said Court, you as the President and
idges of the said , or some one or more of you, will be
eased to summon the said witness (and such other witnesses as
e agents of the said plaintiff and defendant shall humbly
quest you in writing so to summon) to attend at such time and
ace as you shall appoint before some one or more of you or such
her person as according to the procedure of your Court is
mpetent to take the examination of witnesses, and that you will
use such witnesses to be examined upon the interrogatories
hich accompany this letter of request (or *viva voce*) touching the
id matters in question in the presence of the agents of the
aintiff and defendant, or such of them as shall, on due notice
ven, attend such examination.

And I further have the honour to request that you will be pleased to cause the answer of the said witnesses to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification and that you will be f[illegible] such exami-
nation by the seal of [illegible]
accordance with your [illegible]
with such request in writing, if any, for the examination of other witnesses to the said Court.

(Note.—If the Request is directed to a Foreign Court, the words "through His Majesty's Secretary of State for Foreign Affairs for transmission" should be inserted after the words "other witnesses" in the penultimate line of this form)

No 9

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS (O. 26 rr. 9, 11.)

(Title.)

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for should be issued, you are hereby appointed Commissioner for the purpose of

Process to compel the attendance before you of any witnesses or for the production of any documents, whom or which you may desire to examine or inspect, will be issued by any Court having jurisdiction on your application.

A sum of Rs. , being your fee in the above is herewith forwarded

Given under my hand and the seal of the Court this day of 19

Judge

No 10.

COMMISSION TO MAKE A PARTITION (O 26, r. 13.)

(*Title*)

To

WHEREAS it is deemed requisite for the purposes of this suit that a commission should be issued to make the partition or [illegible]

allot such shares to the several parties You are hereby authorised to award sums to be paid to any party by any other party for the purpose of equalizing the value of the shares.

[illegible]

A sum of Rs. , being your fee in the above, is herewith forwarded

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No 11

NOTICE TO MINOR DEFENDANT AND GUARDIAN.

(O 32, r. 3)

(*Title*)

To

Minor Defendant

Natural Guardian

WHEREAS an application has been presented on the part of the plaintiff in the above suit for the appointment of a guardian for the suit to the minor defendant, you, the said minor, and

you (1) are hereby required to take notice that unless within days from the service upon you of this notice, an application is made to the Court for the appointment of you or of some friend of you, the minor, to act as guardian for the suit, the Court will proceed to appoint some other person to act as a guardian to the minor for the purposes of the said suit.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 12

NOTICE TO OPPOSITE PARTY OF DAY FIXED FOR HEARING EVIDENCE OF PAUPERISM. (O. 33, r. 6)

(Title)

To

WHEREAS has applied to this Court for permission to institute a suit against *in forma pauperis* under Order XXXIII of the Code of Civil Procedure, 1908; and whereas the Court sees no reason to reject the application, and whereas the day of 19 has been the applicant may adduce hearing any evidence which

Notice is hereby given to you under rule 6 of Order XXXIII that in case you may wish to offer any evidence to disprove the pauperism of the applicant, you may do so on appearing in this Court on the said day of 19 .

Given under my hand and the seal of the Court, this day of 19 .

(1) Here insert the name of a guardian

No. 13.

NOTICE TO SURETY OF HIS LIABILITY UNDER A DECREE.

(Section 145.)

(*Title.*)

To

Whereas you did on become liable as surety for the performance of any decree which might be passed against the said defendant in the above suit; and whereas a decree was passed on the day of 19 against the said defendant for the payment of , and whereas application has been made for execution of the said decree against you:

Take notice that you are hereby required on or before the day of 19 to show cause why the said decree should not be executed against you, and if no [illegible]

Given under my hand and the seal of the Court, this day of 19 .

Judge.

Nº

REGISTER OF CIVIL

COURT of the

REGISTER OF CIVIL

Date of presentation of plaint	No. of suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE		
		Name	Description	Place of residence	Name.	Description	Place of residence	Particulars.	Amount or value.	When the cause of action accrued.	Day for parties to appear.	Plaintiff.	Defendant.

NOTE.—Where there are numerous plaintiffs or numerous
only, as the case may be.

14.

SUITS. (O. 4, r. 2.)

of at

Suits in the year 19 .

Judgment.			Appeal.		Execution.					Return of Execution		
Date.	For whom.	For what, or amount.	Date of decision of appeal.	Judgment in Appeal.	Date of application.	Date of order.	Against whom.	For what, and amount if money	Amount of costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and date of every Return

defendants, the name of the first plaintiff only, or the first defendant need be entered in the register

No 15

REGISTER OF APPEALS. (O. 41, r 9)

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 19 .

Date of memorandum	No. of Appeal	Appellant			Respondent			Decree appealed from				Appearance			Judgment		
		Name.	Description.	Place of residence.	Name	Description.	Place of residence	Of what Court	No. of Original Suit.	Particulars.	Amount or Value	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or varied.	For what or amount.

THE SECOND SCHEDULE.

ARBITRATION.

Arbitration in Suits.

Parties to suit may apply for order of reference

1. (*1*) Where in any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before judgement is pronounced, apply to the Court for an order of reference.

(2). Every such application shall be in writing and shall state the matter sought to be refeered.

Appointment of arbitrator

2. The arbitrator shall be appointed in such manner as may be agreed upon between the parties

Order of reference.

3. (*1*) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the making of the award, and shall specify such time in the order.

(2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this schedule, deal with such matter in the same suit.

Where reference is to two or more, to provide for difference of opinion

4. (*1*) Where the reference is to two or more arbitrators, shall be made in the order for a difference of opinion among the arbitrators—

(*a*) by the appointment of an umpire ; or

(*b*) by declaring that, if the majority of the arbitrator agree, the decision of the majority shall prevail ; or

(c) by empowering the arbitrators to appoint an umpire; or

(d) otherwise as may be agreed between the parties or, if they cannot agree, as the Court may determine.

(2) Where an umpire is appointed, the Court shall fix such time as it thinks reasonable for the making of his award in case he is required to act

Power of Court to appoint arbitrator in certain cases.

5. (1) In any of the following cases namely :—

(a) where the [illegible] with the [illegible] arbitrator, or

(b) where an arbitrator or umpire—

(i) dies or

(ii) refuses or neglects to act or becomes incapable of acting, or

(iii) leaves British India in circumstances showing that he will probably not return at an early date, or

(c) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so,

any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire

(2) If, within seven clear days after such notice has been served or such further time as the Court may in each case allow, no arbitrator or no umpire [illegible] appointed, as the case may be, the Court may, on appl[illegible] [illegible]otice, [illegible] [illegible]ard, [illegible] [illegible]reeding the arbitration, and in such case shall proceed with the suit.

Powers of arbitrator or umpire appointed under paragraph 4 or 5.

6. Every arbitrator or umpire appointed under paragraph 4 or paragraph 5 shall have the like powers as if his name had been inserted in the order of reference.

7. (*1*) The Court shall issue the same processes to the parties and witness whom the arbitrator or umpire desires to examine, as the Court may issue in suits tried before it.

Summoning witnesses and default.

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

8. Where the arbitrators or the umpire cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either allow further time, and from time to time, either before or after the expiration of the period fixed for the making of the award, enlarge such period, or may make an order superseding the arbitration, and in such case shall proceed with the suit.

Extension of time for making award.

9 Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

Where umpire may arbitrate in lieu of arbitrators

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree

10 Where an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them, and notice of the filing shall be given to the parties.

Award to be signed and filed

Statement of special case by arbitrators or umpire.

11. Upon any reference by an order of the Court, the arbitrator or umpire may, with the leave of the Court, state the award as to the whole or a part there of in the form of a special case for the opinion of the Court, and the Court shall deliver its opinion, thereon and shall order such opinion to be added to and to form part of the award.

Power to modify or correct award

12. The Court may, by order, modify or correct an award,—

(a) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred ; or

(b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision ; or

(c) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

Order as to costs of arbitration

13. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

Where award or matter referred to arbitration may be remitted.

14. The Court may remit the award or any matter referred to arbitration to the re-consideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

(a) where the award has left undermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration, unless such matter can be separated without affecting the determination of the matters referred ;

(b) where the award is so indefinite as to be incapable of execution,

(c) where an objection to the legality of the award is apparent upon the face of it,

15. (*1*) An award remitted under paragraph 11 becomes void on failure of the arbitrator or umpire to re-consider it. But no award shall be set aside except one of the following grounds, namely :—

uuds for setting aside award.

(a) corruption or misconduct of the arbitrator or umpire;

(b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed or of wilfully misleading or deceiving the arbitrator or umpire ;

(c) the award having been made after the issue of an order by the Court superseding the arbitration and proceeding with the suit or after the expirat on of the period allowed by the Court, or being otherwise invalid.

(2) Where an award becomes void or is set aside under clause), the Court shall make an order superseding the arbitration d in such case shall proceed with the suit.

16. (*1*) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and no application has been made to set aside the award, or the Court is refused such application, the Court shall, after the time for aking such application, has expired, procceed to pronounce dgement according to the award,

idgement to be according to ard.

(2) Upon the judgement so pronounced a decree shall follow id no appeal shall lie from such decree except in so far as the ecree is in excess of, or not in accordance with, the award

Order of reference on agreements to refer.

17. (*1*) Where any persons agree in writing that any difference between them shall be referred to arbitration, the parties to the agreement, or any of iem, may apply to any Court having jurisdiction in the matter

Application to file in Court agreement to refer to arbitration.

to which the agreement relates that the agreement be fil[illegible]
Court

(2) The application shall be in writing and shall be numbe[illegible] and registered as a suit between one or more of the parties in[illegible] ested or claiming to be interested as plaintiff or plaintiffs, and [illegible] others or other of them as defendants or defendant, if the appl[illegible] tion has been presented by all the parties, or, if otherwise, [illegible] tween the applicant as plaintiff and the other parties as defendan[illegible]

(3) On such application being made, the Court shall di[illegible] notice thereof to be given to all the parties to the agreeme[illegible] other than the applicants, requiring such parties to show ca[illegible] within the time specified in the notice, why the agreement sho[illegible] not be filed

(4) Where no sufficient cause is shown, the Court shall or[illegible] the agreement to be filed and shall make an order of refere[illegible] to the arbitrator appointed in accordance with the provisions [illegible] the agreement or if there is no such provision and the part[illegible] cannot agree, the Court may appoint an arbitrator.

Stay of suit where there is an agreement to refer to arbitration.

18. Where any party to any agreement to refer to arbitrat[illegible] or any person claiming und[illegible] him, institutes any suit agai[illegible] any other party to the agreeme[illegible] or any person claiming under him, in respect of any ma[illegible] agreed to be referred, any party to such suit may, at the earlie[illegible] possible opportunity and in all cases where issues are settled [illegible] [illegible] to stay the su[illegible] [illegible] reason wh[illegible] [illegible] h the agre[illegible] ment to refer to arbitration, and that the applicant was, at t[illegible] time when the suit was intituted and still remains, ready an[illegible] willing to do all things necessary to the proper conduct of th[illegible] arbitration, may make an order staying the suit.

Provisions [illegible] ings under [illegible]

19. [illegible] far as they are consiste[illegible] [illegible] filed und[illegible] [illegible] be applicab[illegible] to all proceedings under th[illegible] order of reference made by the Court under that paragraph, a[illegible] to the award and to the decree following thereon.

Arbitration without the intervention of a Court.

Filing award in matter referred to arbitration without intervention of Court

20. *(1)* Where any matter has been referred to arbitration without the intervention of a Court, and an award has been made thereon, any person interested in the award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants

(3) [illegible] to the arbit[illegible] show cause [illegible] filed.

Filing and enforcement of such award

21. *(1)* Where the Court is satisfield that the matter has been refered to arbitration and that an award has been made thereon [illegible] uch as is [illegible] is prov- [illegible] proceed [illegible]

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award

Exclusion of certain words in the Specific Relief Act 1877

22. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, shall not apply to any agreement to refer to arbitration, or to any award, to which the provisions of this schedule apply

23. [illegible]

pective purposes therein mentioned.

APPENDIX.

No. 1

APPLICATION FOR AN ORDER OF REFERENCE.

(Title of suit)

1 This suit is instituted for *(state nature of claim)*

2. The matter in difference between the parties is *(state matter of difference.)*

3 The applicants being all the parties interested have agreed that the matter in difference between them shall be referred to arbitration

4 The applicants therefore apply for an order of reference

A. B
C D

Dated the day of 1

NOTE --If the parties are agreed as to the arbitrators it should be so stated.

No. 2.

ORDER OF REFERENCE

(Title of suit)

Upon reading the application presented on the day of 19 it is ordered that the following matter in difference arising in this suit namely.—

____

____

be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed to be umpire; and such arbitrators are to make their award in writing on or before the day of 19 , and in case of the said arbitrators not agreeing in an award the said umpire is to make his award in writing within months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.

Given under my hand and the seal of the Court, this
day of 19 .

Judge.

No. 3

ORDER FOR APPOINTMENT OF NEW ARBITRATOR.

(Title of suit.)

Whereas by an order, dated the day of 19
late order of reference and death, refusal, etc., of arbitrator], it is
consent ordered that Z be appointed in the place of X
ceased, or as the case may be) to act as arbitrator with Y. the
rviving arbitrator, under the said order, and it is ordered that
e award of the said arbitrators be made on or before the
y of 19

Given under my hand and the seal of the Court, this
ty of 19

Judge.

IV li 2

No. 4.

SPECIAL CASE.

(Title of suit)

In the matter of an arbitration between A. B. of and
. D. of the following special case is stated for the opi-
ion of the Court —

[*Here state the facts concisely in numbered paragraphs.*]

The question of law for the opinion of the Court are .-

First, whether ______________________________

____

Secondly, whether ______________________________

____

Dated the day of 19 .

No 5

AWARD

(Title of suit)

In the matter of an arbitration between A. B. of and C. D. of

WHEREAS in pursuance of an order of reference made by the Court of and dated the day of 19 the following matter in difference between A. B. and C. D., namely,

has been referred to us for determination.

Now we having duly considered the matter referred to us do hereby make our award as follows.—

We award—

(1) that

(2) that

Dated the day of 19 .

THE THIRD SCHEDULE.

EXECUTION OF DECREES BY COLLECTORS.

Powers of Collectors

1. Where the execution of a decree has been transferred to the Collector under section 68, he may

(a) proceed as the Court would proceed when the sale of immoveable property is postponed in order to enable the judgement-debtor to raise the amount of the decree, or

(b) raise the amount of the decree by letting in perpetuity or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold, or

(c) sell the property ordered to be sold or so much thereof as may be necessary.

Procedure of Collector in special cases.

2. Where the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same,

that all the liabilities without a sale of the may proceed as here-

Notice to be ers and to pe property

3 (1) 2, the notice, ty days plication for compliance and calling upon —

(a) every person ho[illegible]
against the [illegible]
sale of his [illegible]
decree-holder desires to have so executed, and every holder of a decree for the payment of money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder ;

(b) every person having any claim on the said property to submit to the Collector a statement of such claim and to produce the documents (if any) by which it is evidenced.

(2) Such notice shall be published by being affixed on a conspicuous part of the court-house of the Court which made the original order for sale and in such other places (if any) as the Collector thinks fit, and where the address of any such decree-holder or claimant is known a copy of the notice shall be sent to him by post or otherwise.

Amount of decrees for payment of money to be ascertained and immoveable property available for their satisfaction.

4. (1) Upon the expiration of the said period, the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such inquiry as he may deem necessary for informing himself as to the nature and extent of such immoveable property, and may, from time to time, adjourn such hearing and inquiry.

(2) Where there is no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied and the immoveable property available for the purpose.

(3) Where any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order for sale, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof is within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector, who shall then draw up a statement as above provided in accordance with such decision

5 The Collector

Where District Court ma tices and hold inquiry

cumstances of the jud perty so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by paragraphs 3 and 4 and transmit such statement to the Collector

Effect of decision of Court as to dispute

6. The decision by the Court of any dispute arising under paragraph 4 or paragraph 5 shall, as between the parties thereto, have the force of and be appealable as a decree

Scheme for liquidation of decrees for payment of money

7. (1) Where the amount to be recovered and the property available have been determined as provided in paragraph 4 or

(a)

proceed to sell such property, or,

(b) if it appears that the amount with interest (if any) in accordance with the decree and when
with intere
able, may
amount an
order for sale)-

(i) by letting in perpetuity or for a term, on payment of a premium, the whole are any part of the said property , or

(ii) by mortgaging the whole or any part of such property ; or

(iii) by selling part of such property ; or

(iv) by letting on farm, or managing by himself or an other, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale ; or

(v) partly by one of such modes, and partly by an other or others of such modes.

(2) For the purpose of managing the whole or any part of such property, the Collector may exercise all the powers of its owner

(3) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which the deems sufficient. If any dispute ... Collector proposes to deal under this clause, he may institute a suit in the proper Court either ... the judgment ... name of ... agree ... to be ... arbit

(4) In proceedig under this paragraph the Collector shall be subject to such rules consistent with this Act as may, from time to time, be made in this behalf by the Local Government.

8. Where, on the expiration of the letting or management under paragraph 7, the amount to be recovered has not been realized, the Collector shall notify

Recovery of balance (if any) after letting or management

... sentative in ... necessary to ... within six ... to sell the ... and, if on the ... is not so paid ... rdingly ... render to the ... made the original

... ector to render accounts to ... urt

order for sale an account of all

d of all c...

the powe...

ovisions ... this schedule, and shall hold the balance at the sposel of the Court

(2) Such charges shall include all debts and liabilities ...

... balance shall be applied by the Court—

(a) ...

such amount in the case of each member as the Court thinks fit, and,

(b) where the Collector has proceeded under paragraph 1, ... on of ... pro- ... under section ... to direct, or

(c) where the Collector has proceeded under paragraph 2,—

(i) in keeping down the interest on incumbrances on the property;

(ii) where the judgment-debtor has no other sufficient means of subsistence, in providing for his sub-

sistence to such amount as the Court thinks fit and

(ii) in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered

(3) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs

10 Where the Collector sells any property under this schedule he shall put it up to public auction in one or more lots as he thinks fit and may

Sales how to be conducted.

(a) fix a reasonable reserved price for each lot:

(b) adjourn the sale for a reasonable time whenever, for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property

(c) buy in the property offered for sale, and re-sell the same by public auction or private contract as he thinks fit

11 So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 10 the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for the payment of money.

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under paragraph 7.

(3) The same period shall be excluded in calculating the period [illegible] by [illegible] hich

12 Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by paragraphs 1 to 10 shall be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

Provision where property is in several districts.

13 In exercising the powers conferred on him by paragraphs 1 to 10 the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents

Powers of Collector to compel attendance and production

THE FOURTH SCHEDULE.

(See section 155.)

ENACTMENTS AMENDED.

1	2	3	4
Year	No.	Short title	Amendment
1870	VII	The Court-fees Act, 1870	In article 1 of Schedule I, after the word "plaint" the words "written statement pleading a set-off or counter-claim" and after the word "Act" the words "or of cross-objection" shall be inserted.
			From article 11 of Schedule II the words "from an order rejecting a plaint or" shall be omitted.
			For the entry in the first column of Schedule II relating to article 19 the following entry shall be substituted, namely:—
			"Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908."

(See section 156.)

ENACTMENTS REPEALED.

1	2	3	4
Year	No	Subject or short title	Extent of repeal.
		Acts of the Governor-General in Council	
8170	VII	The Court-fees Act 1870	Section 16, and article 15 of Schedule II
1882	IV	The transfer of property Act 1882	Section 85 to 90 inclusive, 92 to 94 (inclusive, 96, 97, 99 and in section 100 the words "and all the provisions hereinbefore contained as to a mortgagee instituting a suit for the sale of the mortgaged property"
"	XIV	The Code of Civil Procedure	The whole Act.
"	XV	The Presidency Small Cause Courts Act, 1882	The last paragraph of section 3
1888	VI	The Debtors Act, 1888	Section 2 to 8.
"	VII	The Civil Procedure Code Amendment Act, 1888	So much as is unrepealed except section 1 section 65 and section 66, sub-sections (1), (2), and (4).
"	X	The Presidency Small Cause Courts Law Amendment Act, 1888	So much as is unrepealed
1890	VIII	The Guardian and Wards Act 1890	Section 73

1	2	3	4
Year.	No	Subject or short title	Extent of repeal
		Acts of the Governor General in Council	
1891	XII	The Repealing and Amending Act 1891	So much as relates to Act XIV of 1882 and Act VII of 1888
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment, Act 1892	In the title and preamble the words "and the Code of Civil Procedure" and section 2, 3, and 4
1894	V	The Civil Procedure Code Amendment Act, 1894.	The whole Act
1895	VII	The Punjab Laws Act Amendment Act, 1895	Section 1 and 2
"	XIII	The Civil Procedure Code Amendment Act, 1895	The whole Act
1900	VI	The Lower Burma Courts Act, 1900	So much of the schedules as relate to Act XIV of 1882

... sections of the New Act with the corresponding sections of the old Act.

New Act.	Old Act.	New Act	Old Act	New Act	Old Act.
Sec. 1	Sec. 1	62	271	130	
2	2	63	285	131	652, para 2
2, (12)	211, Exp.	64	276	132	652 para 4
3		65	New cf. s. 46	133	640
4	2	66	417	134	641
5	4	67	127	135	New
6	4A	68	320	136	642
7	6 (last) para	69	New	137	648
8	5	70	120	138	645
9	8	71	320	139	187A
10	11	72	326	140	197
11	12	73	295	141	645A
12	13	74	330	142	647
13	New	75	New	143	91
14	14	76	186	144	97
15	13 (Exp 6)	77	New	145	683
16	15	78	391	146-151	251
17	16	79	116	152	New
18	19	80	124	153	cf. 206, para. 3,
19	16A	81	125, 124	154	New
20	18	82	129	155	3, para. 4,
21	17	83	410	156	New
22	16A (2)	84	411	157	3, cont. 1,
23	22	85	412	158	1, " 2,
24	23, 21	86	413	0, 1, 1, 1	3, para. 2,
25	25	87	414	2	20
26	New	88	[illegible]	[illegible]	New
27	18	89	[illegible]	[illegible]	28
[illegible]	14				

28	85
29	650A
30	New
31	"
32	"
33	198
34	209
35	220, 222
36	New
37	649 (Exp)
38	223
39	223
40	New
41	224
42	228
43	229
44	229B
45	229A
46	New
47	244
48	230
49	233
50	234
51	New
52	232
53	New
54	265
55	336
56	245A
57	338
58	341, 342
59	653
60	266
61	New

90	527
91	New
92	539
93	539 (last para)
94	New
95	491, 497
96	540
97	New
98	575
99	578
100	584
101	585
102	586
103	New
104	588
105	591
106	589
107	582
108	587, 590
109	595
110	596
111	597
112	616
113	617
114	623
115	622
116	631
117	632
118	634
119	635
120	638, 639
121-128	New
129	632, para. 3

5	[illegible]
6	29
7	New
8	30, 32
9	31
10	27, 32
11	32
12	35
13	34
O 2, r 1	12
2	43
3	15
4	11
5	45
6	*Cf.* 46, 47.
7	16
O 3, r 1	36
2	37
3	38
4	39
5	40
6	41
O. 4 r 1	48
2	58
O 5, r 1	61
2	65
3	66
4	67
5	68
6	69
7	70
8	71
9	72
10	73

New Act.	Old Act.	New Act.	Old Act.	New Act.	Old Act.
O 5, r 11	74	O. 11, r 21	Cf. s 136	O. 20, r 1	198
12	75	rr 20 & 23	New	2	199
13	76	O 12, rr 1 to 9	New	3	202
14	77	O 13, r. 1	138, 140	4	203
15	78	2	139	5	204
16	79	3	140	6	206, 221
17	80	4	141	7	205
18	81	5	141A	8	New
19	82	6	142	9	207
20	82 (para 2)	7	142A	10	208
	83 & 84	8	143	11	210
21	85	9	144	12	211, 212
22	86	10	137	13	213
23	85	11	145	14	214
24	87, 88	O. 14, r. 1	146	15	215
25	89	2	146 (para. 6)	16	215A
26	90	3	147	17	New
27	422	4	148	18	New
28	468	5	149	19	216
30	91, 92	6	150	20	217
O. 6, rr. 1 to 13	New	7	151	O 21, r 1	257
14	51	O. 15 r. 1	152	2	258
15	51	2	153	3	New
16	New	3	154	4	223, para 5
17	Cf. 53	4	155	5	223, para 6
18	Cf 53	O 16, r 1	159	6	224
O 7, r. 1	50	2	160	7	225
2	50	3	161	8	226
3	50 (para 3)	4	162	9	247
4	[illegible]	5	[illegible]	10	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

6	50 (para. 6)	7	165	12	[illegible]
7	New	8	166	13	237
8	"	9	167	14	238
9	58	10	168	15	231
10	57	11	169	16	232
11	53, 54	12	170	17	215
12	55	13	New	18	216
13	56	14	171	19	217
14	59	15	172	20	New
15	60	16	173	21	230 para. 2.
16	61	17	174 (para.) 1 and 175	22	248
17	62	18	174	23	249
18	63	19	176	24	250, 251
O. 8, r. 1	110	20	177	25	343, 251
2 to 5	New	21	178	26	239, 240
6	111	O. 17, r 1	156	27	241
7	New	2	157	28	242
8		3	158	29	243
9	112	O 18, r 1	179 (Exp)	30	234
10	113	2	179 & 180	31	259
O. 9, r. 1	96	3	180	32	260
2	97	4	181	33	New
3	98	2	182	34	261, 262
4	99	6	183	35	263
5	99A	7	183A	36	264
6	100	8	184	37	245B
7	101	9	185	38	2337
8	102	10	186	39	339, 340
9	103	11	187	40	337A
10	105	12	188	41	267
11	106	13	189	42	253
	107	14	190	43	269
	108	15	191	44	New
	109	16	192	45	New
	117			46	268

... ...sentative in ... ...ecessary to ... within six ks from the date of such notice, he will proceed to sell the ...le or a sufficient part of the said property; and, if on the ...iration of the said six weeks the said balance is not so paid ... Collector shall sell such property or part accordingly.

...9. (*1*) The Collector shall, from time to time, render to the Court which made the original order for sale an account of all monies which come to his hands ...l of all charges incurred by him in the exercise and performance ...he powers and duties conferred and imposed on him under the ...visions of this schedule, and shall hold the balance at the ...posal of the Court.

...lector to render accounts to ...rt.

(2) Such charges shall include all debts and liabilities from ...e to time due to the Government in respect of the property or

(*a*) in providing the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit, and,

(*b*) where the Collector has proceeded under paragraph 1, ...ecution of ...eable pro- ...ler section 73 direct, or

(*c*) where the Collector has proceeded under paragraph 2,—

(*i*) in keeping down the interest on incumbrances on the property,

(*ii*) where the judgment-debtor has no other sufficient means of subsistence, in providing for his sub-

sistence to such amount as the Court thinks fit and

(iii) ... the claims of the original ... holders ... and ... claims were included in the amount ordered to be recovered.

(4) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs.

Sales how to be conducted.

10. Where the Collector sells any property under this schedule, he shall put it up to public auction in one or more lots as he thinks fit and may

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time whenever, for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property;

(c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

Restrictions as to alienation by judgment-debtor or his representative and prosecution of remedies by decree-holders.

11. So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 10 ... interest shall be ... such property ... Collector ... such property ...

part in execution of a decree for the payment of money

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under paragraph 7.

[illegible]

Provision where property is in several districts.

12 Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by paragraphs 1 to 10 shall be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

Powers of Collector to compel attendance and production.

13 In exercising the powers conferred on him by paragraphs 1 to 10 the Collector shall have the powers of a Civil Court to compel the attendance of parties, witnesses and the production of documents.

THE FOURTH SCHEDULE.

(*See section 155.*)

ENACTMENTS AMENDED.

1	2	3	4
Year	No	Short title	*Amendment*
1870	VII	The Court-fees Act, 1870	In article 1 of Schedule I after the word "plaint" the words "written statement pleading a set-off or counter-claim" and after the word "Act" the words "or of cross-objection" shall be inserted.
			From article 11 of Schedule II the words "from an order rejecting a plaint or" shall be omitted.
			For the entry in the first column of Schedule II relating to article 19 the following entry shall be substituted, namely:—
			"Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908."

The Fifth Schedule.

(See section 150.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No	Subject or short title	Extent of repeal.
		Acts of the Governor-General in Council.	
8170	VII	The Court-fees Act 1870	Section 16, and article 15 of Schedule II.
1882	IV	The transfer of property Act 1882	Section 85 to 90 inclusive, 92 to 94 inclusive, 96, 97, 99 and in section 100 the words "and all the provisions hereinbefore contained as to a mortgagee instituting a suit for the sale of the mortgaged property"
"	XIV	The Code of Civil Procedure.	The whole Act.
"	XV	The Presidency Small Cause Courts Act 1882	The last paragraph of section 3
1888	VI	The Debtors Act, 1888	Section 2 to 8
.	VII	The Civil Procedure Code Amendment Act, 1888	So much as is unrepealed, except section 1, section 65 and section 66, sub-sections (1), (3), and (4).
"	X	The Presidency Small Cause Courts Law Amendment Act, 1888	So much as is unrepealed
1890	VIII	The Guardian and Wards Act, 1890	Section 53.

1 Year	2 No.	3 Subject or short title	4 Extent of repeal
		Acts of the Governor General in Council	
1891	XII	The Repealing and Amending Act 1891	So much as relates to Act XIV of 1882 and Act VII of 1888
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment Act 1892	In the title and preamble the words "and the Code of Civil Procedure" and section 2, 3, and 4
1894	V	The Civil Procedure Code Amendment Act, 1894.	The whole Act
1895	VII	The Punjab Laws Act Amendment Act, 1895	Section 1 and 2
"	XIII	The Civil Procedure Code Amendment Act, 1895.	The whole Act
1900	VI	The Lower Burma Courts Act, 1900	So much of the schedules as relate to Act XIV of 1882

... of the New Act with the corresponding sections of the old Act.

New Act.	Old Act	New Act	Old Act	New Act	Old Act
Sec 1	Sec 1	62	271	130	
2	2	63	285	131	652, para 2
2, (12)	211, Exp	64	276	132	652 para 4
3	2	65	New cf S. 316	133	640
4	4	66	317	134	641
5	4A	67	327	135	New
6	6 (last) para	68	320	136	642
7	5	69	New	137	648
8	8	70	320	138	645
9	11	71	320	139	185A
10	12	72	326	140	197
11	13	73	295	141	615A
12	13	74	310	142	647
13	New	75	New	143	94
14	14	76	186	144	95
15	13 (Exp 6)	77	New	145	583
16	15	78	391	146-151	253
17	16	79	416	152	New
18	19	80	421	153	cf. 206, para 3
19	16A	81	425, 428	154	New
20	18	82	429	155	3, para 1,
21	17	83	430	156	New
22	16A (2)	84	431	157	3, sent. 1,
23	22	85	432	158	3, „ 2,
24	21, 24	86	433	159	3, para 2
25	25	87	434	[illegible]	26
26	New	88	[illegible]	[illegible]	New
27	[illegible]	[illegible]	[illegible]	[illegible]	28

28	85	90	527	[illegible]	[illegible]
29	650A	91	New	6	29
30	New	92	539	7	New
31	"	93	539 (last para)	8	30, 32
32	"	94	New	9	31
33	198	95	491, 497	10	27, 32
34	209	96	510	11	32
35	220, 222	97	New	12	35
36	New	98	575	13	34
37	649 (Exp)	99	578	O 2, r 1	42
38	223	100	584	2	43
39	223	101	585	3	45
40	New	102	586	4	44
41	223	103	New	5	45
42	228	104	588	6	*Cf.* 46, 47.
43	229	105	591	7	46
44	229B	106	589	O. 3, r 1	36
45	229A	107	582	2	37
46	New	108	587, 590	3	38
47	244	109	595	4	39
48	230	110	596	5	40
49	233	111	597	6	41
50	234	112	616	O 4, r 1	48
51	New	113	617	2	58
52	252	114	623	O. 5, r 1	61
53	New	115	622	2	65
54	265	116	631	3	66
55	336	117	632	4	67
56	245A	118	634	5	68
57	338	119	635	6	69
58	341, 342	120	638, 639	7	70
59	653	121-128	New	8	71
60	266	129	652, para, 3	9	72
61	New			10	73

New Act.	Old Act
O. 5, r. 11 ...	74
12 ...	75
13 ...	76
14 ...	77
15 ...	78
16 ...	79
17 ...	80
18 ...	81
19 ...	82
20 ...	82 (para 2) 83 & 84
21 ...	85
22 ...	86
23 ...	85
24 ...	87, 88
25 ...	89
26 ...	90
27 ...	422
28 ...	468
30 ...	91, 92
O. 6, rr. 1 to 13	New
14 ...	51
15 ...	51
16 ...	New
17 ...	Cf. 53
18 ...	Cf. 53
O. 7, r. 1 ...	60
2 ...	60
3 ...	60 (para 3)
4 ...	60 (para 4)
[illegible]	[illegible]

New Act	Old Act.
O. 11, r. 21	Cf. s. 136
rr. 20 & 23	New
O. 12, rr. 1 to 9	New
O. 13, r. 1	138, 140
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ACT XLV. OF 1860.

The Indian Penal Code.

'Received G.-G.'s assent on Oct. 6, 1860.

CHAPTER I.

Introduction.

Preamble

Whereas it is expedient to provide a General Penal Code for British India; It is enacted as follows:—

Title and extent of operation of the Code

1. This Act shall be called "The Indian Penal Code," and shall take effect...... throughout the whole of the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India."

Punishment of offences committed within the said territories.

2 Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof of which he shall be guilty within the said territories.

Punishment of offences committed beyond, but which by law may be tried within, the territories

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said territories in the same manner as if such act had been committed within the said territories.

Extension of Code to extra-territorial offences.

4. The provisions of th Code apply also to any offen committed by—

(1) any Native Indian subject of Her Majes in any place without and beyond Briti India.

(2) any other British subject within the terri tories of any Native Prince or Chief in India ;

(3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

Explanation. In this section the word 'offence' includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Illustrations.

(a) A, a coolie who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner, who is in the service of the Punjab Government, commits a murder in Jhind He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay D is guilty of abetting murder.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4, William IV., chapter 85,

Certain laws not to be affected by this Act.

r of any Act of Parliament passed after that Statute, i anywise affecting the East India Company, or the aid territories of the inhabitants thereof; or any of he provisions of any Act for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty, or of any special or local law.

CHAPTER II.

General Explanations.

Definitions in the Code to be understood subject to exceptions.

6. Throughout this Code, every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

(a) The sections in this Code which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Sense of expression once explained.

7. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Gender

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Man" 'Woman'

11. The word "person" includes any company or association, or body of persons whether incorporated or not.

"Person"

12 The word "public" includes any class of the public or any community.

"Public"

13 The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

'Queen

14. The words "servants of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India," or by or under the authority of the Government of India or any Government.

"Servants of the Queen"

15. The words "British India" denote the territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, chapter 106, entitled "An Act for the Better Government of India"

"British India."

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him, respectively

"Government of India"

17. The word "Government" denotes the person or persons authorized by law to administer executive government in any part of British India.

"Government"

18. The word "Presidency" denotes the territories subject to the Government of a Presidency.

"Presidency."

19. The word "Judge" denotes, not only every person who is officially designated as a Judge, but also every person—

"Judge"

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

A Collector exercising jurisdiction in a suit under Act X of 1859 is a Judge

A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge

A member of a panchayat which has power, under Regulation VII., 1816, of the Madras Code, to try and determine suits, is a Judge.

A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice"

Illustration.

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

"Public servant."

First.—Every convenanted servant of the Queen;

Second.—Every commissioned officer in the military or naval force of the Queen while serving under the Government of India or any Government;

Third.—Every Judge;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenti-

cate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property"

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Wrongful gain"

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining it is not legally entitled.

"Wrongful loss."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully; losing wrongfully

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing, but not otherwise.

"Property in possession of wife, clerk, or servant"

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion, in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

"Counterfeit"

28 A person is said to "counterfeit" who causes one thing to resemble another thing, intending, by means of that resemblance, to practice deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the persons so causing the one thing to resemble the other thing intended, by means of that resemblance, to

practise deception, or knew it to be likely that deception would thereby be practised.

"Document." 29. The word "*document*" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document

A power-of-attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this section, although the same may not be actually expressed.

Illustrations.

A writes his name on the back of a bill of exchange payable to his order. [illegible]

signature.

"Valuable security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will"

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omission

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act."
"Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Acts done [illegible] persons in f[illegible] of common i[illegible]

34. [illegible]

act in the same manner as if it were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins

in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission

36. Whenever the causing of a certain effect, *or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect, partly by an act, and partly by an omission, is the same offence.*

Illustration.

A intentionally *causes* Z's death, partly by illegally *omitting to give* Z food, and partly by beating Z. A has *committed* murder

Co-operation by doing one of several acts constituting an offence

37. When an offence is committed by means of several acts, whoever intention*ally co-operates in the commission of that offence by doing any one of those acts, either singly, or jointly with any other person*, commits that offence.

Illustrations.

(*a*) A and B agree to murder Z by severally, and at *different times, giving him small doses of poison*. A and B administer the poison according to the agreement with *intent* to murder Z. Z dies from the effects of the several *doses of poison so administered to him*. Here A and B intentionally *co-operate* in the commission of murder, and as each of them does an act by which the death is caused they are both *guilty of the offence*, though their acts are separate.

(*b*) A and B are joint jailors, and, as such, have the charge of Z, a prisoner, alternately for six hours at a time A and B intending to cause Z's death, knowingly co-operate *in* causing that effect by illegally omitting, each during the *time* of his attendance, to furnish Z with food supplied to *them for that purpose*. Z *dies* of hunger. Both A and B are guilty *of* the murder of Z

A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Persons concerned in criminal act may be guilty of different offences.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder B, having ill-will towards Z, ... subject to ... igh A and ... guilty of

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"Voluntarily."

Illustration.

A sets fire, by night, to an inhabited house in a large town for the purpose of facilitating a robbery, and thus causes the death of a person Here A may not have intended to cause death, and may even be sorry that death has been caused by his act, yet, if he knew that he was likely to cause death, he has caused death voluntarily;

"Offence." **40.** Except in the chapter and sections mentioned in clauses two and three of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV., and in the following sections, namely, sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined:

And in sections 141, 176, 177, 201, 202, 212, 216, and 441, the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

"Special law." **41.** A "special law" is a law applicable to a particular subject.

"Local law." **42.** A "local law" is a law applicable only to a particular part of British India.

"Illegal." "Legally bound to do." **43.** The word "illegal" is applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury." **44.** The word "injury" denotes any harm whatever illegally caused to any person in body, mind, reputation or property.

"Life." **45** The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death." **46.** The word "death" denotes the death of a human being, unless the contrary appears from the context.

"Animal." **47.** The word "animal" denotes any living creature other than a human being.

"Vessel" **48.** The word "vessel" denotes anything made for the conveyance by water of human beings or of property.

"Year." "Month." **49.** Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

"Section." **50.** The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.

"Oath." **51.** The word "*oath*" *includes* a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

"Good faith" **52.** Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

CHAPTER III.

Of Punishments.

"Punishment" **53.** The punishments to which offenders are liable under the provisions of this Code are—

First—Death;

Secondly—Transportation;

Thirdly—Penal servitude;

Fourthly—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly—Forfeiture of property;

Sixthly—Fine.

Commutation of sentence of death

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life

55. In every case in which sentence of transportation for life shall have been passed, the Government of India or the Government of the place with which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Sentence of Europeans and Americans to penal servitude.

56. Whenever any person, being a European or American, is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV. of 1855:

Provided that, where a European or American offender would, but for such act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.

Proviso as to sentence for term exceeding ten years, but not for life.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

Fractions of terms of punishment

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

Offenders sentenced to transportation how dealt with until transported.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

Transportation instead of imprisonment

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple

such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence of forfeiture of property.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate, during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

3. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

mt of fine.

4. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment;

ence of impri- it for non-pay- of fine.

nd in every case of an offence punishable with isonment or fine; or with fine only, in which offender is sentenced to a fine;

t shall be competent to the Court which senten- such offender to direct by the sentence that, in ult of payment of the fine, the offender shall er imprisonment for a certain term, which im- onment shall be in excess of any other imprison- it to which he may have been sentenced, or to ch he may be liable under a commutation of a tence

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the [illegible] maximum [illegible] punishable w[illegible]

mit to imprison- t for non-payment ne when imprison- t and fine award-

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Description of im- sonment for non- rment of fine

Imprisonment for non-payment of fine when offence punishable with fine only.

67. If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees and for any term not exceeding six months in any other case.

Imprisonment to terminate on payment of fine

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of imprisonment on payment of proportional part of fine

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustrations.

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied

ore the expiration of two months of the imprisonment, will be discharged as soon as the two months are comted. If fifty rupees be paid or levied at the time he expiration of those two months, or at any later time ile A continues in imprisonment, A will be immediately charged.

ne leviable within years or during risonment.

ath not to disrge property from ility.

70. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the sentence, and if, der the sentence, the offender be liable to imprisonment for a longer period than six years, then any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which ould, after his death, be legally liable for his debts.

imit of punishment offence made up of eral offences

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished th the punishment of more than one of such his fences, unless it be so expressly provided.

Where anything is an offence falling within two more separate definitions of any law in force r the time being by which offences are defined or nished, or

"where several acts, of which one or more than e would, by itself or themselves, constitute an ffence, contitute, when combined, a different offnce.

"the offender shall not be punished with a more vere punishment than the Court which tries him uld award for any one of such offences.

Illustrations.

(a) A gives Z fifty strokes with a stick. Here A [illegible]
causing hurt [illegible]
each of the [illegible]

which make up the whole beating. If A were liable [illegible]
punishment for every blow, he might be imprisoned [illegible]
fifty years, one for each blow But he is liable only to [illegible]
punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, [illegible]
intentionally strikes Y, here, as the blow given to Y is [illegible]
part of the act whereby A voluntarily causes hurt to Z, A is
liable to one punishment for voluntarily causing hurt to Z
and to another for the blow given to Y

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of those offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever any person is convicted of an offence for which, under this Code, the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say:—

Solitary confinement.

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months, and shall not exceed one year;

a time not exceeding three months if the term mprisonment shall exceed one yeai.

74. In executing a sentence of solitary con- finement, such confinement shall, in no case, exceed fourteen days time, with intervals between the periods of soli- confinement of not less duration than such iods; and when the imprisonment awarded shall eed three months, the solitary confinement award- shall not exceed seven days, in any one month, he whole imprisonment awarded, with intervals ween the periods of solitary confinement of not duration than such periods.

.it of solitary con- nent

75. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of this Code with imprisonment of either description for a term of three rs or upwards, shall be guilty of any offence nishable under either of those chapters with im- sonment of either description for a term of three ars or upwards, shall be subject for every such bsequent offence to transportation for life, or to prisonment of either description for a term which y extend to ten years.

nhanced punish- t for certain of- e under Ch XII. Ch. XVII after nous conviction

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CHAPTER IV.

General Exceptions.

76. Nothing is an offence which is done by a person who is, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in ood faith believes himself to be, bound by law to o it.

Act done by a per- is bound, or by mis- ce of fact believing nself bound, by law

Illustrations

(a) A, a soldier, fires on a mob by the order of his superior officer in conformity with the commands of the law A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence

Act of Judge when acting judicially

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of Court

78. Nothing which is done in pursuance of, or which is warranted by, the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be justified by law, in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z in order to bring Z before the proper authorities A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or ɪowledge, in the doing of a lawful act in a lawful anner by lawful means, and with proper care and ution.

Accident in doing awful act.

Illustration.

A is at a work with a hatchet, the head flies off, and lls a man who is standing by. Here, if there was no want proper caution on the part of A, his act is excusable, and t an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, nd in good faith for the purpose of preventing or voiding other harm to person or property.

Act likely to cause rm, but done without criminal intent, d to prevent other rm.

Explanation.—It is a question of fact in such a ase whether the harm to be prevented or avoided vas of such a nature and so imminent as to justify r excuse the risk of doing the act with the knowedge that it was likely to cause harm.

Illustration

(a) A, the [illegible]

[illegible]

hanging his course, he must incur risk of running down a oat, C, with only two passengers on board, which he may ossibly clear Here, if A alters his course without any ntention to run down the boat C, and in good faith for the urpose of avoiding the danger to the passengers in the boat

B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(*b*) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under seven years of age

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child, above 7 and under 12, of immature understanding

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a [p]articular intent or [k]nowledge committed [b]y one who is intoxi[ca]ted.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same [k]nowledge as he would have had if he had not been [i]ntoxicated, unless the thing which intoxicated him [w]as administered to him without his knowledge, or [a]gainst his will.

Act not intended, [a]nd not known to be [l]ikely, to cause death [o]r grievous hurt, done [b]y consent

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play, and if A while playing fairly hurts Z, A commits no offence

Act not intended to cause death done by consent in good faith for person's benefit

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit

it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending in good faith, Z's benefit, performs that operation on Z with Z's consent. A has committed no offence.

Act done in good faith for benefit of child or insane person by or by consent of guardian.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause to that person.

Provisos.

Provided—

Firstly.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend the abetment of any offence, to the committing of ich offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his ld's consent, has his child cut for the stone by a surgeon, owing it to be likely that the operation will cause the ld's death, but not intending to cause the child's death s within the exception, inasmuch as his object was the re of the child

Consent known to given under fear or sconception

90 A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under misconception of fact, and if the person doing the t knows, or has reason to believe, that the consent as given in consequence of such fear or misconception ; or

Consent of insane rson

if the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the ature and consequence of that to which he gives is consent ; or,

Consent of child.

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of ge.

Exclusion of acts hich are offences independently of harm aused

91. The exceptions in sections 87 and 88, and 89, do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be nown to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration

ed to cause to the woman. Therefore it is not an of... "by reason of such harm," and the consent of the wo... or of her guardian to the causing of such miscarriage d... not justify the act

Act done in good faith for benefit of a person without consent

92. Nothing is an offence by reason of any h... which it may cause to a pe... for whose benefit it is done in good faith, even without th... person's consent, if the circumstances are such th... it is impossible for that person to signify consent or if that person is incapable of giving consent, and h... no guardian or other person in lawful charge of h... from whom it is possible to obtain consent in t... for the thing to be done with benefit:

Provisos

Provided—

First.—That this exception shall not extend to the intentional causing of death, or the attemp... to cause death.

Secondly.—That this exception shall not ext... to the doing of anything which the person doing knows to be likely to cause death for any purpo... other than the preventing of death, or grievous hu... or the curing of any grievous disease or infirmity.

Thirdly.—That this exception shall not extend to the voluntary causing of hurt or to the attempt to cause hurt, for any purpose other than the pre... venting of death or hurt;

Fourthly.—That this exception shall not ext... to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a*) Z is thrown from his horse, and is insensible A, a urgeon, finds that Z requires to be trepanned A, not inending Z's death, but in good faith, for Z's benefit, perorms the trepan before Z recovers his power of judging for imself. A has committed no offence

(*b*) Z is carried off by a tiger A fires at the tiger, mowing it to be likely that the shot may kill Z, but not ntending to kill Z, and in good faith intending Z's benefit A's ball gives Z a mortal wound A has committed no offence.

(*c*) A, a surgeon, sees a child suffer an accident which is ikely to prove fatal unless an operation be immediately per- [illegible] uardian [illegible] es of the [illegible] A has [illegible]

(*d*) A is in a house which is on fire, with Z, a child People below hold out a blanket A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit Here, even if the child is killed by the fall, A has committed no offence

Explanation —Mere pecuniary benefit is not benefit within the meaning of sections 88, 89, and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made for the benefit of that person.

Communication made in good faith

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State, punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which at the time of doing it reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools, and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception

Act causing slight harm

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Things done in private defence

96. Nothing is an offence which is done in the exercise of the right of private defence.

ht of private de- of the body and perty.

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

First.—His own body and the body of any other on against any offence affecting the human body;

Secondly.—The property, whether movable or imable, of himself or of any other person, against act which is an offence falling under the defini- of theft, robbery, mischief, or criminal trespass, hich is an attempt to commit theft, robbery, mis- f, or criminal trespass.

ht of private de- against the act person of unsound , &c

98. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the xication of the person doing that act, or by reason ny misconception on the part of that person, every son has the same right of private defence against t act which he would have if the act were that nce.

Illustrations.

(a) Z, under the influence of madness, attempts to kill Z is guilty of no offence But A has the same right rivate defence which he would have if Z were sane

(b) A enters by night a house which he is legally itled to enter
aker, attacks A
conception, comr
ht of private defe
Z were not acting under that misconception.

ts against which re is no right of pri- e defence.

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt if done

or attempted to be done by a public servant acting in good faith under colour of his office, though the act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt if done or attempted to be done by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence

Explanation 1.—A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, as such, unless he knows or has reason to believe that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant unless he knows or has reason to believe that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority if demanded

When the right of private defence of the body extends to causing death

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death, or of any other harm

to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An assault with the intention of gratifying unnatural lust ,

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102 The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence,

though the offence may not have been comm' and it continues as long as such apprehension danger to the body continues.

103 The right of private defence of prop' extends, under the restrict' mentioned in section 99, to voluntary causing of death, or any other harm to the wr' doer, if the offence, the committing of which, or attempting to commit which, occasions the exer' of the right, be an offence of any of the descript' hereinafter enumerated, namely :—

When the right of private defence of property extends to causing death

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on building, tent, or vessel, which building, tent, vessel is used as a human dwelling or as a place the custody of property ;

Fourthly.—Theft, mischief, or house-trespass der such circumstances as may reasonably cause prehension that death or grievous hurt will be consequence, if such right of private defence is exercised.

104. ... ...itting of which, ...mit whi... ...of the ... of private defence, be theft, m' chief, or criminal trespass, not of any of the des' tions enumerated in the last preceding section, the right does not extend to the voluntary causing death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing the wrong-doer of any harm other than death.

When such ... tends to cau... harm other than death

Commencement and continuance of the right of private defence of property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property, or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempts to murder him. He cannot effectually exercise his right of private defence

without firing on the mob, and he cannot fire witho[illegible] of harming young children who are mingled with the[illegible] A commits no offence if, by so firing, he harms any o[illegible] children

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the[illegible] ing of a thing who—

First —Instigates any person to do that thing;

Secondly —Engages with one or more other [illegible] son or persons in any conspiracy for the doing [illegible] that thing, if an act or illegal omission takes [illegible] in pursuance of that conspiracy, and in order to [illegible] doing of that thing; or,

Thirdly.—Intentionally aids, by any act or ille[illegible] omission, the doing of that thing.

Explanation 1.—A person who, by wilful mi[illegible] presentation, or by wilful concealment of a mater[illegible] fact which he is bound to disclose, voluntarily ca[illegible] or procures, or attempts to cause or procure, a th[illegible] to be done, is said to instigate the doing of t[illegible] thing

Illustration.

A, a public officer, is authorized by a warrant fro[illegible] Court of Justice to apprehend Z B, knowing that [illegible] and also that C is not Z, wilfully represents to A th[illegible] is Z and thereby intentionally causes A to apprehend [illegible] Here B abets by instigation the apprehension of C

Explanation 2.—Whoever, either prior to, or the time of, the commission of an act, does anyth[illegible] in order to facilitate the commission of that act, a[illegible] thereby facilitates the commission thereof, is said [illegible] aid the doing of that act.

108. A person abets an offence who abets either the commission of an offence, or the commission of an t which would be an offence, if committed by a rson capable by law of committing an offence, ith the same intention or knowledge as that of the bettor.

Abettor.

Explanation 1.—The abetment of the illegal nission of an act may amount to an offence, although the abettor may not himself be bound to do hat act.

Explanation 2.—To constitute the offence of betment, it is not necessary that the act abetted hould be committed or that the effect requisite to onstitute the offence should be caused

Illustrations

(a) A instigates B to murder C B refuses to do so A ... it murder

D B, in pursuance of the ers from the wound A is uilty of instigating B to commit murder

Explanation 3.—It is not necessary that the peron abetted should be capable by law of committing in offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge

Illustrations.

(a) A, with a guilty intention abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death B, in consequence of the abetment, does the

act in the absence of A, and thereby causes Z's d... Here, though B was not capable by law of committing offence, A is liable to be punished in the same manner ... B had been capable by law of committing an offence, ... had committed murder, and he is, therefore, subject to ... punishment of death

(c) A instigates B to set fire to a dwelling-house. B, ... consequence of the unsoundness of his mind, being ... able of knowing the nature of the act, or that he is ... what is wrong or contrary to law, sets fire to the house ... consequence of A's instigation. B has committed no ... fence, but A is guilty of abetting the offence of setting ... to a dwelling house, and is liable to the punishment ... vided for that offence.

(d) A, intending to cause a theft to be committed, ... tigate ... Z out of Z's p... sessio... to A ... faith ... misconception does not take dishonestly, and ... does not commit theft. But A is guilty of abetting ... and is liable to the same punishment as if B had committed theft

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that ... to be pu... murder; and ... also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he en...

he conspiracy in pursuance of which the offence ommitted.

Illustration

A concerts with B a plan for poisoning Z It is agreed A shall administer the poison B then explains the to C, mentioning that a third person is to administer poison, but without mentioning A's name C agrees to ure the poison, and procures and delivers it to B for purpose of its being used in the manner explained dministers the poison Z dies in consequence Here, gh A and C have not conspired together, yet C has been aged in the conspiracy in pursuance of which Z has n murdered. C has, therefore, committed the offence ned in this section, and is liable to the punishment for der.

108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence committed in British India.

betment in British ia of offences outit

Illustration.

A, in British India, instigates B, a foreigner in Goa, commit a murder in Goa A is guilty of abetting irder.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided r the offence.

Punishment of abetnt if the act abetted committed in consence, and where no press provision is ide for its punishnt.

Explanation—An act or offence is said to be ommitted in consequence of abetment when it is ommitted in consequence of the instigation, or in

pursuance of the conspiracy, or with the aid of constitutes the abetment.(u)

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison, and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if person abetted does act with different intention from that of abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act have been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted, and different act done.

111. When an act is abetted, and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Proviso.

Provided the act done was a probable consequence of the abetment, and was committed under the influence

the instigation, or with the aid, or in pursuance the conspiracy which constituted the abetment.

Illustrations.

[illegible] into the food of Z [illegible]

the child was acting under the influence of A's instiion, and the act done was, under the circumstances, a ibable consequence of the abetment, A is liable in the ne manner, and to the same extent, as if he had insti-ed the child to put the poison into the food of Y

(b) A instigates B to burn Z's house B sets fire to house and at the same time commits theft of property re. A, though guilty of abetting the burning of the use, is not guilty of abetting the theft, for the theft s a distinct act, and not a probable consequence of the rning.

(c) A instigates B and C to break into an inhabited use at midnight for the purpose of robbery, and provides em with arms for that purpose B and C break into the use, and, being resisted by Z one of the inmates, murder . Here, if the murder was the probable consequence of e abetment, A is liable to the punishment provided for urder

ıbettor when liable ı cumulative punishent for act abetted, ıd for act done

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is iable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a ublic servant B, in consequence, resists that distress n offering the resistance, B voluntarily causes *grievous* urt to the officer executing the distress As B has comitted both the offence of resisting the distress and the ffence of voluntarily causing grievous hurt, B is liable to

punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in respect the distress, A will also be liable to punishment for each of the offences

113. When an act is abetted with the intent on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114 Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor present when offence is committed

115. Whoever abets the commission of an offence punishable with death or transportation for life shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment

Abetment of offence punishable with death or transportation for life—

if offence not committed

unished with imprisonment of either description
ı term which may extend to seven years, and
l also be liable to fine ;

ınd if any act for which the abettor is liable ın consequence of the abetment, and which causes hurt to any person, is done, the abettor shall iable to imprisonment of either description for a ı which may extend to fourteen years, and shall be liable to fine.

ct causing harm lone in consece

Illustration.

A instigates B to murder Z The offence is not comed If B had murdered Z, he would have been subto the punishment of death or transportation for life. refore A is liable to imprisonment for a term which extend to seven years, and also to a fine, and if any ; be done to Z in consequence of the abetment, he will iable to imprisonment for a term which may extend to teen years, and to fine

116 Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment such abetment, be punished with imprisonment any description provided for that offence for a m which may extend to one-fourth part of the igest term provided for that offence, or with such e as is provided for that offence, or with both ;

etment of offence ishable with imonment— offence be not mitted,

and, if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any scription provided for that offence for a term

abettor or person tted be a public vant whose duty it o prevent offence

which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence A has nevertheless committed the offence defined in this section, and is punishable accordingly.

[illegible] prevent rob[illegible] ...ough the ...lf of the ...t offence.

and also to fine.

(d) B abets the commission of a robbery by A, a police-officer whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of any offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting commission of an offence by the public, or by more than ten persons.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this section.

Concealing design to commit offence punishable with death or transportation for life—

118. Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence punishable with death or transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed;

if offence be not committed;

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years: or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

Illustration.

[illegible]

in pursuance of the design A is punishable under this section

Public servant concealing design to commit offence which it is his duty to prevent—

119. Whoever, being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence, which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence,

or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

if offence be committed

or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years;

if offence be punishable with death, &c.,

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both

if offence be not committed.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has, by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section

Concealing design to commit offence punishable with imprisonment—

120 Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence,

makes any representation which he knows to be se respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence · a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term such imprisonment, or with such fine as is provid- for the offence, or with both

If offence be committed;

If offence be not mitted

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

121 Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death or transportation for life, and shall rfeit all his property.

Waging or attempt- to wage war, or etting waging of war inst the Queen

Illustrations

(a) A joins an insurrection against the Queen. A has mmitted the offence defined in this section

(b) A in India abets insurrection against the Queen's vernment of Ceylon by sending arms to the insurgents is guilty of abetting the waging of war against the Queen.

121A. Whoever, within or without British India,

Conspiracy to com- it offences punish- le by section 121

e sovereignty of B

', or conspires to overawe, by means of criminal rce or the show of criminal force, the Government India or any Local Government, shall be punished

with transportation for life or any shorter term or with imprisonment of either description which may extend to ten years

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

Collecting arms, &c with the intention of waging war against the Queen

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Concealing with intent to facilitate design to wage war

123. Whoever, by any act or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Assaulting Governor-General, Governor &c., with intent to compel or restrain the exercise of any lawful power

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India or of the Council of any presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor, or Member of Council,

assaults or wrongfully restrains, or attempts 'rongfully to restrain, or overawes, by means of riminal force or the show of criminal force, or at-:mpts so to overawe, such Governor-General, Gover-or, Lieutenant-Governor, or Member of Council,

shall be punished with imprisonment of either escription for a term which may extend to seven 'ears, and shall also be liable to fine.

Sedition.

124A. Whoever by words, either spoken or written or by signs or by visible representation or otherwise,)rings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt, or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt, or disaffection, do not constitute an offence under this section.

125. Whoever wages war against the Govern- ment of any Asiatic Power in alliance or at peace with the Queen, or attempts to wage war or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

Waging war against any Asiatic Power in alliance with the Queen.

126 Whoever commits depredation, or makes preparations to commit depreda- tion, on the territories of any Power in alliance or at peace with the Queen, shall be punish- ed with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and to forfeiture of any property used in committing such depredation, or acquired by such depredation

Committing depreda- tion on territories of Power at peace with the Queen

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and to forfeiture of the property so received.

Receiving property taken by war or depre- dation mentioned in sections 125 and 126.

128. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, volun- tarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with

Public servant volun- tarily allowing prisoner of State or war to es- cape

ıғportation for life or imprisonment of either ɛription for a term which may extend to ten rs, and shall also be liable to fine.

ıblic servant negli-ly suffering such-ɔner to escape.

129. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, negligently suffers such pri-oner to escape m any place of confinement in which such prisoner ;onfined, shall be punished with simple imprison-ɪnt for a term which may extend to three years, d shall also be liable to fine.

ıding escape of, cuing, or harbour-, such prisoner

130. Whoever, knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue y such prisoner, or harbours or conceals any such isoner who has escaped from lawful custody, or fers, or atempts to offer, any resistance to the recap-'re of such prisoner, shall be punished with trans-ɔrtation for life, or with imprisonment of either ɘscription for a term which may extend to ten ears, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war 'ho is permitted to be at large on his parole within ertain limits in British India is said to escape from ıwful custody if he goes beyond the limits within vhich he is allowed to be at large.

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY AND NAVY.

Abetting mutiny or attempting to seduce a soldier or sailor from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his

allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—In the section the words "officer" and "soldier" include any person subject to the Articles of War for the better government of Her Majesty's army, or to the Articles of War contained in Act No. V. of 1869.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132 Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of assault by soldier or sailor on his superior officer when in execution of his office

133. Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Whoever abets the desertion of any officer, soldier, or sailor in the army or navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or both.

; of deser- er or sailor.

Whoever, except as hereinafter excepted, knowing, or having reason to believe, that an officer, soldier, or sailor in the army or navy of the Queen has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or both.

ng desert-

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

. The master or person in charge of a merchant-vessel, on board of which any deserter from the army or navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel

concealed merchant- ough negli- master

Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the army or navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

nt of act of nation by sailor

Application of foregoing section to the Indian Marine Service

138A. The fore[illegible] tions of this chapter [illegible] as if Her Majesty['s] Marine Service were [illegible] in the navy of the Queen.

Persons subject to Articles of War

139. No person subject to any Artic[les] for the army or navy [of the] Queen, or for any part [of such] army or navy, is subject to punishment [under this] Code for any of the offences defined in th[is] [chapter].

Wearing garb or carrying token used by soldier

140. Whoever, not being a soldier in th[e] [military] or naval service of th[e] [Queen], wears any garb or car[ries any] token used by such a [soldier] with the intention that it may be believed th[at he is] such a soldier, shall be punished with impr[isonment] of either description for a term which may [extend] to three months, or with fine which may ext[end to] five hundred rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRAN[QUILLITY]

Unlawful assembly.

141 An assembly of five or more per[sons is de]signated an "unlawful a[ssemb]ly" if the common object of the person c[omposing] that assembly is—

First —To overawe, by criminal force or [show of] criminal force, the Legislative or Executive G[overn]ment of India, or the Government of any P[residency] or any Lieutenant-Governor, or any public [servant] in the exercise of the lawful power of su[ch public] servant; or

Second.—To resist the execution of any la[w, or of] any legal process; or,

hird —To commit any mischief or criminal tres- or other offence ; or,

ourth.—By means of criminal force, or show iminal force, to any person, to take or obtain ssion of any property, or to deprive any person e enjoyment of a right of way, or of the use of r, or other incorporeal right of which he is in ssion or enjoyment, or to enforce any right or osed right ; or,

Fifth—By means of criminal force, or show of inal force, to compel any person to do what he t legally bound to do, or to omit to do what he gally entitled to do.

Explanation —An assembly which was not un- ul when it assembled may subsequently become nlawful assembly.

142. Whoever, being aware of facts which ren- der any assembly an unlawful assembly, intentionally joins that mbly, or continues in it, is said to be a member n unlawful assembly.

ing member of un- l assembly

143. Whoever is a member of an unlawful as- sembly shall be punished with imprisonment of either descrip- n for a term which may extend to six months, or h fine, or with both.

nishment

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death is a mem- r of an unlawful assembly, shall be punished th imprisonment of either description for a term ich may extend to two years, or with fine, or with th.

ming unlawful as bly armed with lly weapon

Joining or continuing in unlawful assembly, knowing it has been commanded to disperse

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Rioting armed with deadly weapon

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every member of unlawful assembly guilty of offence committed in prosecution of common object

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person, who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

150. Whoever hires, or engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become member of any unlawful assembly, shall be punishe as a member of such unlawful assembly, and for offence which may be committed by any such son as a member of such unlawful assembly, in suance of such hiring, engagement, or employnt, in the same manner as if he had been a mem- of such unlawful assembly, or himself had comtted such offence.

ring, or conniving ring, of persons to unlawful assembly

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punied with imprisonment of either description for a m which may extend to six months, or with fine, with both

nowingly joining continuing in asbly of five or more sons after it has n commanded to perse.

Explanation —If the assembly is an unlawful asmbly within the meaning of section 141, the offenr will be punishable under section 145

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring disperse an unlawful assembly, or to suppress a ot or affray, or uses, or threatens or attempts to se, criminal force to such public servant, shall be unished with imprisonment of either description for term which may extend to three years, or with ne, or with both.

Assaulting or obucting public sernt when suppressing ot, &c

Wantonly giving provocation with intent to cause riot—

if rioting be committed

if not committed.

153. Whoever malignantly or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both, and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Promoting enmity between classes

153A Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention, and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects.

Owner or occupier of land on which an unlawful assembly is held

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall

unishable with fine not exceeding one thousand upees ;

if he or his agent or manager, knowing that such ffence is being or has been committed, or having eason to believe it is likely to be committed, do not ive the earliest notice thereof in his or their power the principal officer at the nearest police-station,

and do not in the case of his or their having reason to believe that it was about to be committed, use ll lawful means in his or their power to prevent it, nd, in the event of its taking place, do not use all awful means in his or their power to disperse or uppress the riot or unlawful assembly

155 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which uch riot takes place, or who claims any interest in uch land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived ny benefit therefrom,

Liability of person r whose benefit a ot is committed

such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims

Liability of agent of owner or occupier for whose benefit a riot is committed.

any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place, and for suppressing and dispersing the same

Harbouring persons hired for an unlawful assembly

157 Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

158 Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141 shall be punished with imprisonment of either description for a term which may extend to six months or with fine, or with both;

or to go armed

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description

a term which may extend to two years, or with , or with both.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit affray."

fray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which y extend to one month or with fine which may end to one hundred rupees, or with both.

nishment for coming affray

CHAPTER IX.

OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161 Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, other than al remuneration, as a motive or reward for do-, or forbearing to do, any official act, or for show-, or forbearing to show, in the exercise of his icial functions, favour or disfavour to any person for rendering, or attempting to render, any serce or disservice to any person. with the Legislative Executive Government of India, or with the overnment of any presidency, or with any Lieunant-Governor, or with any public servant, as such, all be punished with imprisonment of either desiption for a term which may extend to three years, with fine, or with both.

ublic servant taking gratification other legal remuneration in respect of an ial act

Explanation.—"Expecting to be a public servant." —If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"*Gratification.*"—The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"*Legal remuneration.*"—The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"*A motive or reward for doing.*"—A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a*) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section

(*b*) A, h [illegible] the Court of subsidiary P [illegible] ter of that P [illegible] sum as a motive or reward for doing or bearing particular official act, or for rendering or attempting to render any particular service to that Power with the British Government But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power A has committed the offence defined in this section

(*c*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained

tle for Z, and thus induces Z to give A money as a re-
'd for this service A has committed the offence defined
:his section.

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or ward for inducing, by corrupt or illegal means, y public servant to do or to forbear to do any offi-.l act, or, in the exercise of the official functions such public servant, to show favour or disfavour any person, or to render or attempt to render any :vice or disservice to any person, with the Legis-ive or Executive Government of India, or with a Government of any Presidency, or with any eutenant-Governor, or with any member of the nate of the Allahabad University, or with any blic servant as such, shall be punished with imprisonment of either description for a term which may tend to three years, or with fine, or with both.

aking gratification rder, by corrupt or gal means, to influe public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or ward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do ny official act, or, in the exercise of the official functions of such public servant, to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or ith the Government of any Presidency, or with any Lieutenant-Governor, or with any member of the Senate of the Allahabad University, or with any

Taking gratification exercise of personal influence with pub- servant

public servant as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustrations.

An advocate who receives a fee for arguing a case before a Judge, a person who receives pay for arranging or correcting a memorial addressed to Government, setting forth the services and claims of the memorialist, a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust, are not within this section, inasmuch as they do not exercise to profess to exercise personal influence.

Punishment for abetment by public servant of offences defined in section 162 or 163

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

Illustration.

A is a public servant B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or both

Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant

165. Whoever, being a public servant, accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any valuable thing, without consideration or for a consideration which he knows to be inadequate

from any person whom he knows to have been, to be, or to be likely to be, concerned in any proding or business transacted, or about to be transed by such public servant, or having any connec with the official functions of himself or of any lic servant to whom he is subordinate,

or from any person whom he knows to be intered in, or related to, the person so concerned,

shall be punished with simple imprisonment for a m which may extend to two years, or with fine, with both.

Illustrations.

(*a*) A, a Collector, hires a house of Z, who has a settlent case pending before him It is agreed that A shall fifty rupees a month, the house being such that, if the gain were made in good faith, A would be required to two hundred rupees a month A has obtained a value thing from Z without adequate consideration.

(*b*) A, a Judge, buys of Z, who has a cause pending A's Court, Government promissory notes at a discount en they are selling in the market at a premium A has ained a valuable thing from Z without adequate consiation.

(*c*) Z's brother is apprehended and taken before A, a gistrate, on a charge of perjury. A sells to Z shares in bank at a premium when they are selling in the market a discount Z pays A for the shares accordingly. The ney so obtained by A is a valuable thing obtained by m without adequate consideration

Public servant disying law with int to cause injury to y person.

166 Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to use, or knowing it to be likely that he will, by ich disobedience, cause injury to any person, shall punished with simple imprisonment for a term

which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section

Public servant framing an incorrect document with intent to cause injury

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document, in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with *imprisonment* of either description for a term which *may extend* to three years, or with fine, or with both.

Public servant unlawfully engaging in trade

168. Whoever, being a public servant, and being legally bound, as such public servant, not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which *may* extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property either in his own name, or *in the* name of another, or jointly or in shares with others, shall be punished with simple imprisonment *for a* term which may extend to two years, or with

, or with both; and the property, if purchased, l be confiscated.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such e, or falsely personates any other person holding a office, and in such assumed character does or mpts to do any act under colour of such office, ll be punished with imprisonment of either desition for a term which may extend to two years, with fine, or with both.

rsonating a public servant.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with intention that it may be believed, or with the owledge that it is likely to be believed, that he ongs to that class of public servants, shall be puned with imprisonment of either description for a m which may extend to three months, or with e which may extend to two hundred rupees, or th both.

earing garb or ying token used ublic servant with dulent intent.

CHAPTER X.

f Contempts of the Lawful Authority of Public Servants.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, such public servant, to issue such summons, notice, order, shall be punished with simple imprisonment r a term which may extend to one month, or with

Absconding to avoid vice of summons or ier proceeding

fine which may extend to five hundred rupees, with both;

or, if the summons, notice, or order is to att in person or by agent, or to produce a document in Court of Justice, with simple imprisonment for term which may extend to six months, or with fi which may extend to one thousand rupees, or wi both.

Preventing service of summons or other proceeding or preventing publication thereof

173. Whoever in any manner intention prevents the serving on him or on any other person, of summons, notice, or order ceeding from any public serv legally competent, as such public servant, to is such summons, notice, or order,

or intentionally prevents the lawful affixing to place of any summons, notice, or order,

or intentionally removes any such summons, no or order from any place to which it is lawfu affixed,

or intentionally prevents the lawful making any proclamation, under the authority of any pu servant legally competent, as such public servant direct such proclamation to be made,

shall be punished with simple imprisonment a term which may extend to one month, or with f which may extend to five hundred rupees, or w both;

or, if the summons, notice, order, or proclamat is to attend in person or by agent, or to produ document in a Court of Justice, with simple impris ment for a term which may extend to six months, with fine which may extend to one thousand rupe or with both.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a

Non-attendance in obedience to an order from public servant

...mation
...mpetent,

intentionally omits to attend at that place or time, departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons, notice, order, or proclamation, is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(*b*) A, being legally bound to appear before a Zillah Judge as a witness in obedience to summons issued by that Zillah Judge, intentionally omits to appear A has committed the offence defined in this section

175. Whoever being legally bound to produce or deliver up any document to any public servant as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine

Omission to produce document to public servant by person legally bound to produce it

which may extend to five hundred rupees, or both;

or, if the document is to be produced or deliv up to a Court of Justice, with simple impriso for a term which may extend to six months, or fine which may extend to one thousand rupe with both.

Illustration.

A. being legally bound to produce a document be Zillah Court intentionally omits to produce the sam has committed the offence defined in this section.

Omission to give notice or information to public servant by person legally bound to give it

176. Whoever, being legally bound to give notice, or to furnish inform on any subject to any publi vant as such, intentionally to give such notice or to fu such information in the m and at the time required by law, shall be pu with simple imprisonment for a term which extend to one month, or with fine which may e to five hundred rupees, or with both;

or, if the notice or information required given respects the commission of an offence, required for the purpose of preventing the com sion of an offence, or in order to the apprehe of an offender, with simple imprisonment f term which may extend to six months, or wit which may extend to one thousand rupees, or both.

Furnishing false information.

177. Whoever, being legally bound to fu information on any subj any public servant as such, nishes, as true, information on the subject whi knows or has reason to believe to be false, sha

shed with simple imprisonment for a term which extend to six months, or with fine which may nd to one thousand rupees, or with both ;

r, if the information which he is legally bound ve respects the commission of an offence, or is ired for the purpose of preventing the commis- of an offence, or in order to the apprehension n offender, with imprisonment of either des- tion for a term which may extend to two years, ith fine, or with both.

Illustrations

a) A, a landholder, knowing of the commission of a ler within the limits of his estate, wilfully misinforms Magistrate of the district that the death has occurred ccident in consequence of the bite of a snake. A is y of the offence defined in this section

b) A, a village-watchman, knowing that a considerable r of strangers has passed through his village in order to mit a dacoity in the house of Z, a wealthy merchant ling in a neighbouring place, and being bound, under , s 7, Reg III, 1821, of the Bengal Code, to give y and punctual information of the above fact to the offi- of the nearest police-station, wilfully misinforms the ce-officer that a body of suspicious characters passed ugh the village with a view to commit dacoity in a cer- distant place in a different direction Here A is guilty he offence defined in the latter part of this section

Explanation.—In section 176 and in this section word "offence" includes any act committed at place out of British India, which, if committed British India, would be punishable under any of [illegible] 304, 382, 392, [illegible] 402, 435, 436, [illegible], and the word ffender" includes any person who is alleged to e been guilty of any such act.

178. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Refusing oath or affirmation when duly required by public servant to make it

179 Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Refusing to answer public servant authorized to question

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Refusing to sign statement

181 Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes to such public servant or other person as aforesaid touching that subject, any statement which is false

False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.

nd which he either knows or believes to be ılse, or does not believe to be true, shall be punishd with imprisonment of either description for a ırm which may extend to three years, and shall lso be liable to fine.

False information ith intent to cause ublic servant to use is lawful power to ie injury of another erson.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(*a*) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z A has committed the offence defined in this section

(*b*) A falsely informs a public servant that Z has con-

with annoyance to Z. A has committed the offence des in this section.

(c) A falsely informs a policeman that he has been saulted and robbed in the neighbourhood of a partic village He does not mention the name of any pers one of his assailants, but knows it to be likely that me sequence of this information, the police will make enqu

183. Whoever offers any resistance to t taking of any property by t lawful authority of any pu servant, knowing or having r son to believe that he is su public servant, shall be punished with imprisonmen of either description for a term which may exte to six months, or with fine which may extend to o thousand rupees, or with both.

Resistance to the taking of property by lawful authority of public servant

184. Whoever intentionally obstructs any sal of property offered for sale b the lawful authority of any pu lic servant as such, shall be pu nished with imprisonment o either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both

Obstructing sale of property offered for sale by authority of public servant

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such

Illegal purchase or bid for property offered for sale by authority of public servant

ding, shall be punished with imprisonment of ier description for a term which may extend to month, or with fine which may extend to two idred rupees, or with both.

186 Whoever voluntarily obstiucts any public servant in the discharge of his public functions shall be punished with imprisonment of either cription for a term which may extend to three nths, or with fine which may extend to five hun-:d rupees, or with both

ɔstructing public ınt ın discharge ublic functions

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally its to give such assistance, shall be punished with iple imprisonment for a term which may extend one month, or with fine which may extend to two ndred rupees, or with both :

mission to assist lic servant when ad by law to give stance

and, if such assistance be demanded of him by a blic servant legally competent to make such deind for the purposes of executing any process lawlly issued by a Court of Justice, or of preventing commission of an offence, or of suppressing a ɔt or affray, or of apprehending a person charged th or guilty of an offence or of having escaped ɔm lawful custody, shall be punished with simple iprisonment for a term which may extend to six onths, or with fine which may extend to five huned rupees, or with both.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order he is directed to

Disobedience to order duly promulgated public servant.

abstain from a certain act, or to take certain with certain property in his possession or un management, disobeys such direction,

shall, if such disobedience causes or ten cause obstruction, annoyance, or injury, or obstruction, annoyance, or injury, to any p lawfully employed, be punished with simple i sonment for a term which may extend to one m or with fine which may extend to two hu rupees, or with both ;

and, if such disobedience causes or tends to danger to human life, health, or safety, or cau tends to cause a riot or affray, shall be pun with imprisonment of either description for a which may extend to six months, or with fine w may extend to one thousand rupees, or with bot

Explanation.—It is not necessary that the o der should intend to produce harm, or cont plate his disobedience as likely to produce harm is sufficient that he knows of the order which disobeys, and that his disobedience produces or likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawf empowered to promulgate such order, directing that a ligious procession shall not pass down a certain street knowingly disobeys the order, and thereby causes dan or not. A has committed the offence defined in this se tion.

Threat of injury to public servant

189. Whoever holds out any threat of injury to any public servant, or to any per son in whom he believes th public servant to be interested, for the purpose o inducing that public servant to do any act, or t forbear or delay to do any act, connected with th

se of the public functions or such public ser-
hall be punished with imprisonment of either
tion for a term which may extend to two
or with fine, or with both.

). Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant

: of injury to person to re- om applying ection to pub- nt.

empowered as such to give such protection,
ause such protection to be given, shall be pu-
with imprisonment of either description for a
hich may extend to one year, or with fine, or
oth.

CHAPTER XI.

FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

l. Whoever, being legally bound by an oath, or by any express provision of law, to state the truth, or being

; false evi-

by law to make a declaration upon any sub-
akes any statement which is false, and which
er knows or believes to be false, or does not
to be true, is said to give false evidence.

planation 1.—A statement is within the mean-
this section, whether it is made verbally or
rise.

planation 2.—A false statement as to the be-
the person attesting is within the meaning of
ection, and a person may be guilty of giving
evidence by stating that he believes a thing

which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(a) A in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z when he does not believe it to be the handwriting of Z Here A states that which he knows to be false and therefore, gives false evidence,

(c) A [illegible] of Z s handwriting [illegible] be the ha- states th [illegible] je so. For writing [illegible] is true as A's state [illegible] his belief and therefore, although the signature may not be the handwriting of Z, A has not given false evidence

[illegible] the truth, states [illegible] a party [illegible] A gives [illegible] the [illegible] named or not

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not, and which he does not believe to be, a true interpretation or translation. A has given false evidence

192. Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement, may appear in evidence in a judicial proceeding, or in a proceeding taken by law before

Fabricating false evidence

ablic servant as such, or before an arbitrator, that such circumstance, false entry, or false ement, so appearing in evidence, may cause any son, who, in such proceeding, is to form an opi- upon the evidence, to entertain an erroneous nion touching any point material to the result uch proceeding, is said "to fabricate false evi- ce"

Illustrations.

(a) A puts jewels into a box belonging to Z, with the ntion that they may be found in that box, and that circumstance may cause Z to be convicted of theft A fabricated false evidence

(b) A makes a false entry in his shop-book for the pur- of using it as corroborative evidence in a Court of tice. A has fabricated false evidence

(c) A, with the intention of causing Z to be convicted a criminal conspiracy, writes a letter in imitation of Z's dwriting, purporting to be addressed to an accomplice such criminal conspiracy, and puts the letter in a place ch he knows that the officers of the police are likely to rch. A has fabricated false evidence

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of judicial proceeding, shall be punished with imprisonment of either description for a term which may tend to seven years, and shall also be liable to ne;

unishment for false dence

and whoever intentionally gives or fabricates lse evidence in any other case shall be punished ith imprisonment of either description for a term hich may extend to three years, and shall also be able to fine.

Explanation 1.—A trial before a Cour is a judicial proceeding.

Explanation 2.—An investigation directe preliminary to a proceeding before a Court tice is a stage of a judicial proceeding, that investigation may not take place before of Justice.

Illustration.

A, in an inquiry before a Magistrate for the pu ascertaining whether Z ought to be committed fo makes on oath a statement which he knows to be fa this enquiry is a stage of a judicial proceeding, given false evidence

Explanation 3.—An investigation directed Court of Justice according to law, and cond under the authority of a Court of Justice, is a of a judicial proceeding, though that investig may not take place before a Court of Justice

Illustration.

A, in an inquiry before an officer deputed by a Cou Justice to ascertain on the spot the boundaries of l makes on oath a statement which he knows to be false. this enquiry is a stage of a judicial proceeding, A has g false evidence

Giving or fabricating false evidence with intent to procure conviction of capital offence.

194. Whoever gives or fabricates false e dence, intending thereby cause, or knowing it to be like that he will thereby cause an person to be convicted of an o fence which is capital by th law of British India or England, shall be punish with transportation for life, or with rigorous impri sonment for a term which may extend to ten years and shall also be liable to fine;

and, if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall punished either with death or the punishment reinbefore described.

[I]nnocent persons thereby convicted [an]d executed.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which, by the law of British India or England, is not capital, ut punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall e punished as a person convicted of that offence ould be liable to be punished.

[G]iving or fabricat[ing] false evidence [wi]th intent to procure [con]viction of offence [pu]nishable with trans[po]rtation or imprison[me]nt.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life or rigorous mprisonment for a term which may extend to ten years, vith or without fine A, therefore, is liable to such transportation or imprisonment, with or without fine

196. Whoever corruptly uses, or attempts to use as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is

Issuing or signing false certificate

screening the offender from legal punishment, or ith that intention gives any information respecting ie offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with aprisonment of either description for a term which ay extend to seven years, and shall also be liable o fine;

f a capital offence,

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten ears, shall be punished with imprisonment of either escription for a term which may extend to three ears, and shall also be liable to fine;

if punishable with ansportation

and, if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine or with both.

if punishable with ss than ten years' aprisonment

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screeing B from punishment. A is liable to imprisonment of either description for seven years, and also to fine

Intentional omission to give information of offence by person bound to inform

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with impri-

sonment of either description for a term wh extend to six months, or with fine, or with b

203. Whoever, knowing or having believe that an offence committed, gives any inf respecting that offence knows or believes to shall be punished with imprisonment of ei cription for a term which may extend to tw or with fine, or with both.

Giving false information respecting an offence committed.

Explanation.—In sections 201 and 202 this section, the word 'offence' includes committed in any place out of British India if committed in British India, would be pu under any of the following sections, name 304, 382, 392, 393, 394, 395, 396, 397, 398, 435, 436, 449, 450, 457, 458, 459, and 460.

204. Whoever secretes or destroys any d which he may be lawful pelled to produce as evi a Court of Justice, or proceeding lawfully held before a public se such, or obliterates or renders illegible the any part of such document with the inte preventing the same from being produced or evidence before such Court or public ser aforesaid, or after he shall have been lawful moned or required to produce the same for t pose, shall be punished with imprisonment description for a term which may extend to tw or with fine, or with both.

Destruction of document to prevent its production as evidence

205. Whoever falsely personates anoth in such assumed characte any admission or statem confesses judgment, or ca

False personation for purpose of act or proceeding in suit or prosecution

ess to be issued, or becomes bail or security, or any other act in any suit or criminal prosecu-, shall be punished with imprisonment of either ription for a term which may extend to three s, or with fine, or with both.

206. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken forfeiture, or in satisfaction of a fine, under a tence which has been pronounced, or which he ws to be likely to be pronounced, by a Court of tice or other competent authority, or from being en in execution of a decree or order which has n made, or which he knows to be likely to be de, by a Court of Justice in a civil suit, shall be ished with imprisonment of either description for erm which may extend to two years, or with fine, with both.

udulent removal icealment of pro- to prevent its re as forfeited or ecution

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or actices any deception touching any right to any operty or any interest therein, intending thereby to event that property or interest therein from being ken as a forfeiture or in satisfaction of a fine, ider a sentence which has been pronounced, or hich he knows to be likely to be pronounced by a ourt of Justice or other competent authority, or om being taken in execution of a decree or order hich has been made, or which he knows to be likely

raudulent claim to perty to prevent its ure as forfeited or execution.

to be made, by a Court of Justice in a civil shall be punished with imprisonment of either cription for a term which may extend to two or with fine, or with both.

Fraudulently suffering decree for sum not due

208. Whoever fraudulently causes or suffers decree or order to be passed against him at the suit of person for a sum not due or a larger sum than is due to such person, or for property or interest in property to which such person is not entitled, or fraudulently causes or suffers decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him, for a larger amount at the suit of B who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

Dishonestly making false claim in Court

209 Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining decree for sum not due

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property

terest in property to which he is not entitled, or dulently causes a decree or order to be executed nst any person after it has been satisfied, or for hing in respect of which it has been satisfied, or dulently suffers or permits any such act to be in his name, shall be punished with imprison- of either description for a term which may ex- to two years, or with fine, or with both.

211. Whoever, with intent to cause injury to any person, institutes, or causes to be instituted, any criminal proceeding against that person, lsely charges any person with having committed ffence, knowing that there is no just or lawful nd for such proceeding or charge against that on, shall be punished with imprisonment of either ription for a term which may extend to two years, ith fine, or with both ,

se charge of of- made with in- o injure.

nd, if such criminal proceeding be instituted on lse charge of an offence punishable with death, sportation for life, or imprisonment for seven s or upwards, shall be punishable with imprison- t of either description for a term which may ex- l to seven years, and shall also be liable to fine.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has son to believe to be the offender with the intention of screening him from legal punishment.

rbouring offend-

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term ch may extend to five years, and shall also be li- e to fine;

a capital offence.

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If punishable with transportation for life, or with imprisonment.

and, if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both

'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine

213. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of pr

Taking gift, &c, to screen an offender from punishment.—

y to himself or any other person, in considera- of his concealing an offence, or of his screening person from legal punishment for any offence, of his not proceeding against any person for the pose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term ich may extend to seven years, and shall also be ble to fine ;

a capital offence ,

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which ay extend to three years, and shall also be liable to ne ;

punishable with transportation for life, with imprisonment

and, if the offence is punishable with imprisonment not extending to ten years, shall be punished th imprisonment of the description provided for e offence for a term which may extend to one-fourth rt of the longest term of imprisonment provided r the offence, or with fine, or with both

214 Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

Offering gift or restoration of property consideration of screening offender—

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If a capital offence;

and, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with transportation for life, or with imprisonment.

and, if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes, or agrees or consents to take, any gratification under pretence or on account of helping any person to recover any moveable property, of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered—

216 Whenever any person convicted of, or charged with, an offence, being in lawful custody for that offence, escapes from such custody,

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person, with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

if a capital offence,

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if punishable with transportation for life, or with imprisonment

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ;

and, if the offence is punishable with imprisonment which may extend to one year, and not to ten years, he shall be punished with imprisonment of

...e for a term ...of the longest ... such offence,

or

gu

guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Penalty for harbouring robbers or dacoits.

216A. Whoever, knowing or having reason to believe that any persons are about to commit, or have recently committed, robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Definition of 'harbour' in sections 212, 216, and 216A.

216B. In section, 212, 216, and 216A, the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or the assisting a person in any way to evade apprehension.

'ublic servant dis-ying direction of with intent to save son from punish-it or property from eiture

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be ely that he will thereby save, any person from legal nishment, or subject him to a less punishment than it to which he is liable, or with intent to save, or owing that he is likely thereby to save, any pro-ty from forfeiture, or any charge to which it is ole by law, shall be punished with imprisonment of her description for a term which may extend to) years, or with fine, or with both.

ublic servant fram-incorrect record or ing with intent to person from pun-ient or property 1 forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, h intent to cause, or knowing it to be likely that will thereby cause, loss or injury to the public or any person, or with intent thereby to save, or owing it to be likely that he will thereby save, r person from legal punishment, or with intent to e, or knowing that he is likely thereby to save, r property from forfeiture, or other charge to ich it is liable by law, shall be punished with imprisonment of either description for a term which may end to three years, or with fine, or with both.

ublic servant in ju-al proceeding cor-ly making report, contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces, in any stage of a judicial proceeding, any report, order, verdict, or decision, which he

knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that, in so doing, he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of public servant bound to apprehend.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping, or attempting to escape, from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought

have been apprehended, was charged with, or li-le to be apprehended for, an offence punishable ith transportation for life, or imprisonment for a rm which may extend to ten years ; or

with imprisonment of either description for a rm which may extend to two years, with or with-it fine, if the person in confinement, or who ought is charged with, or li- an offence punishable less than ten years.

Intentional omission apprehend on the rt of public servant und to apprehend rson under sentence lawfully committed

222. Whoever, being a public servant, legally bound as such public servant to apprehend, or to keep in confinement, any person under sentence of a Court of Justice for any offence, or lawfully committed custody, intentionally omits to apprehend such erson, or intentionally suffers such person to escape, r intentionally aids such person in escaping, or at-mpting to escape, from such confinement, shall be unished as follows, that is to say :—

with transportation for life, or with imprisonment f either description for a term which may extend to ourteen years, with or without fine, if the person in onfinement, or who ought to have been apprehended, under sentence of death ; or

with imprisonment of either description for a erm which may extend to seven years, with or with-ut fine, if the person in confinement, or who ought o have been apprehended, is subject, by a sentence f a Court of Justice, or by virtue of a commutation f such sentence, to transportation for life or penal ervitude for life, or to transportation or penal servi-ude or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.

Escape from confinement or custody negligently suffered by a public servant

223. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with, or convicted of, any offence, or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged, or of which he has been convicted, or escapes, or attempts to escape, from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or obstruction to lawful apprehension of another person

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescue

mpts to rescue any other person from any y in which that person is lawfully detained offence, shall be punished with imprisonment er description for a term which may extend years, or with fine, or with both;

if the person to be apprehended, or the person d or attempted to be rescued, is charged with, le to be apprehended for, an offence punish-ith transportation for life or imprisonment term which may extend to three years, shall nished with imprisonment of either description term which may extend to three years, and also be liable to fine;

, if the person to be apprehended or rescued, empted to be rescued, is charged with, or liable apprehended for, an offence punishable with , shall be punished with imprisonment of either iption for a term which may extend to seven , and shall also be liable to fine;

, if the person to be apprehended or rescued, tempted to be rescued, is liable under the sen- of a Court of Justice, or by virtue of a commu- of such a sentence, to transportation for life, transportation, penal servitude, or imprison- for a term of ten years or upwards, shall be shed with imprisonment of either description term which may extended to seven years, and also be liable to fine;

r, if the person to be apprehended or rescued, ttempted to be rescued, is under sentence of h, shall be punished with transportation for life mprisonment of either description for a term exceeding ten years, and shall also be liable to

225A. Whoever, being a public servant leg[ally] bound, as such public servant apprehend or to keep in con[finement] any person in any ca[se] not provided for in section 22[1] section 220, or section 22[3] ...

Omission to apprehend, or a sufferance of escape, on part of public servant in cases not otherwise provided for

in any other law for the time being in force, omits to apprehend that person, or suffers him to escape fr[om] confinement, shall be punished—

(*a*) if he does so intentionally, with impri[son]ment of either description for a te[rm] which may extend to three years, or w[ith] fine, or with both ; and

(*b*) if he does so negligently, with simple impri[son]sonment for a term which may exten[d to] two years, or with fine, or with both

225A. Whoever, in any case not provided for [in] section 224 or section 225, [or] in any other law for the t[ime] being in force, intentionally [of]fers any resistance or illegal [ob]struction to the lawful appre[hen]sion of himself or of any other person, or escape[s or] attempts to escape from any custody in which h[e is] lawfully detained, or rescues or attempts to re[scue] any other person from custody in which that per[son] is lawfully detained, shall be punished with im[pri]sonment of either description for a term which [may] extend to six months, or with fine, or with both

Resistance or obstruction to lawful apprehension, or escape, or rescue in cases not otherwise provided for.

226. Whoever, having been lawfully transport[ed] returns from such transpor[ta]tion the term of such trans[por]tation not having expired, and his punishment [not] having been remitted, shall be punished with tr[ans]portation for life, and shall also be liable to fine,

Unlawful return from transportation.

imprisoned with rigorous imprisonment for a not exceeding three years before he is so trans- d.

27. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which as originally sentenced if he has already suffer- part of that punishment, and if he has suffered part of that punishment then with so much at punishment as he has not already suffered.

ation of condi- t remission of ment.

228. Whoever, intentionally offers any insult or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, ith fine which may extend to one thousand es, or with both.

ntional insult or uption to public t sitting in any of a judicial pro- g

229. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any in which he knows that he is not entitled by to be so returned, empannelled or sworn, or wing himself to have been so returned, empaned, or sworn contrary to law, shall voluntarily e on such jury or as such assessor, shall be ished with imprisonment of either description for rm which may extend to two years, or with fine, vith both.

sonation of a ju- assessor

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVT STAMPS.

"Coin" defined.

230. Coin is metal used for the time b... money, and stamped and i... by the authority of some ... or Sovereign Power in order to be so used.

Queen's Coin

Queen's coin is metal stamped and issued by authority of the Queen, or the authority of the Govern... of India, or of the Government or any Presid... or of any Government in the Queen's dominion... order to be used as money; and metal which been so stamped and issued shall continue to be Queen's coin for the purposes of this chapter, withstanding that it may have ceased to be u... money.

Illustrations.

(a) Cowries are not coin

(b) Lumps of unstamped copper, though used as m... are not coin

(c) Medals are not coin, inasmuch as they are not ...tended to be used as money

(d) The coin denominated as the Company's rupee is Queen's coin

(e) The 'Farukhabad' rupee, which was formerly u... as money under the authority of the Government of I... is Queen's coin, although it is no longer so used.

Counterfeiting coin

231. Whoever counterfeits, or knowingly p... forms any part of the proces... counterfeiting, coin, shall ... punished with imprisonment of either description f... a term which may extend to seven years, and sh... also be liable to fine.

Explanation.—A person commits this offence, ı, intending to practise deception, or knowing it ıe likely that deception will thereby be practised, ses a genuine coin to appear like a different coin.

unterfeiting the n's coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, the Queen's coin, ıl be punished with transportation for life, or h imprisonment of either description for a term ıch may extend to ten years, and shall also be ıle to fine.

aking or selling in- ment for counter- ng coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, the purpose of being used, or having reason to ieve that it is intended to be used, for the purpose [illegible] shed with impri- term which may . be liable to fine.

Iaking or selling in- tment for counter- ing Queen's coin

234 Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing having reason to believe that it is intended to be ıed, for the purpose of counterfeiting the Queen's ın, shall be punished with imprisonment of either scription for a term which may extend to seven ears, and shall also be liable to fine.

Possession of instru- ent or material for e purpose of using e same for counter- fting coin

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same

is intended to be used for that purpose, sh[illegible] punished with imprisonment of either de[illegible] for a term which may extend to three years [illegible] shall also be liable to fine;

and, if the coin to be counterfeited is the Q[illegible] coin, shall be punished with imprisonment o[illegible] description for a term which may extend to ten [illegible] and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin

236. Whoever, being within British India, [illegible] the counterfeiting of coin [illegible] British India, shall be pu[illegible] in the same manner as if [illegible] abetted the counterfeiting of such coin within Br[illegible] India.

Import or export of counterfeit coin

237. Whoever imports into British India, [illegible] ports therefrom, any counter[illegible] coin, knowing or having rea[illegible] to believe that the same is counterfeit, shall be pu[illegible] ished with imprisonment of either description for [illegible] term which may extend to three years, and shall al[illegible] be liable to fine.

Import or export of counterfeits of the Queen's coin

238. Whoever imports into British India, [illegible] ports therefrom, any counter[illegible] coin which he knows, or has r[illegible] son to believe, to be a counter[illegible] [illegible] shall be punished with [illegible] [illegible]risonment of [illegible] [illegible] extend to ten years [illegible]

Delivery to another of coin, possessed with the knowledge that it is counterfeit.

239. Whoever, having any counterfeit co[illegible] which, at the time when he be[illegible] came possessed of it, he knew [illegible] be counterfeit, fraudulently, [illegible] with intent that fraud may [illegible]

nitted, delivers the same to any person, or at-
its to induce any person to receive it, shall be
shed with imprisonment of either description for
m which may extend to five years, and shall
be liable to fine.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of Queen's coin, fraudulently or with intent that d may be committed, delivers the same to any son, or attempts to induce any person to receive shall be punished with imprisonment of either ;ription for a term which may extend to ten years, shall also be liable to fine.

ivery of Queen's possessed with nowledge that it nterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin, which he knows to be counterfeit, but which he did not know to be nterfeit at the time when he took it into his pos-sion, shall be punished with imprisonment of ier description for a term which may extend to years, or, with fine to an amount which may ex-d to ten times the value of the coin counterfeited, with both.

livery of coin as ine, which when possessed, the de-er did not know to unterfeit

Illustration

A, a coiner, delivers counterfeit Company's rupees to his omplice B for the purpose of uttering them B sells the ees to C, another utterer, who buys them, knowing them
goods to D,
interfeit D,
are counter-
Here D is

punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

242. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by person who knew it to be counterfeit when he became possessed thereof.

243. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking coining instrument from mint.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be

nished with imprisonment of either description for erm which may extend to seven years, and shall o be liable to fine.

'raudulently or dis-estly diminishing ght or altering com-ition of coin.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imisonment of either description for a term which ay extend to three years, and shall also be liable to ne.

Explanation.—A person who scoops out part of e coin, and puts anything else into the cavity, alters e composition of that coin.

Fraudulently or dis-oestly diminishing ight or altering com-sition of Queen's in.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of ther description for a term which may extend to even years, and shall also be liable to fine.

Altering appear-ice of coin with in-nt that it shall pass coin of different scription

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imrisonment of either description for a term which may xtend to three years, and shall also be liable to fine.

Altering appear-ace of Queen's coin ith intent that it iall pass as coin of ifferent description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different

description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Delivery of coin possessed with knowledge that it is altered.

250. Whoever, having coin in his pos[illegible] with respect to which the of[illegible] defined in section 246 or [illegible] has been committed, and ha[illegible] known at the time when he be[illegible]came possessed of such coin that such offence ha[illegible] been committed with respect to it, fraudulently [illegible] with intent that fraud may be committed, deliv[illegible] such coin to any other person, or attempts to induce any other person to receive the same, shall be pun[illegible]ished with imprisonment of either description for [illegible] term which may extend to five years, and shall al[illegible] be liable to fine.

Delivery of Queen's coin possessed with knowledge that it is altered.

251. Whoever, having coin in his possess[illegible] with respect to which the offe[illegible] defined in section 247 or [illegible] has been committed, and havi[illegible] known at the time when he be[illegible]came possessed of such coin that such offence ha[illegible] been committed with respect to it, fraudulently, o[illegible] with intent that fraud may be committed, deliver[illegible] such coin to any other person, or attempts to indu[illegible] any other person to receive the same, shall be pun[illegible]ished with imprisonment of either description for [illegible] term which may extend to ten years, and shall a[illegible] be liable to fine.

Possession of coin by person who knew it to be altered when he became possessed thereof.

252. Whoever fraudulently, or with intent th[illegible] fraud may be committed, is [illegible] possession of coin with resp[illegible] to which the offence defined [illegible] either of the sections 246 or 2[illegible] has been committed, havi[illegible]

n at the time of becoming possessed thereof such offence had been comitted with respect to coin, shall be punished with imprisonment of description for a term which may extend to years, and shall also be liable to fine.

53. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed having n at the time of becoming possessed thereof such offence had been committed with respect ch coin, shall be punished with imprisonment her description for a term which may extend o years, and shall also be liable to fine.

ssession of s coin by per- o knew it to be ;when he be- possessed there-

54. Whoever delivers to any other person as genuine, or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, coin in respect of which he knows that any such

very of coin as e, which, when possessed, the er did not know ltered.

on, know that such operation had been performhall be punished with imprisonment of either ription for a term which may extend to two s, or with fine to an amount which may extend n times the value of the coin for which the alteroin is passed or attempted to be passed.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued

nterfeiting Go- nent stamp.

by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence [illegible] stamp of [illegible]

256. Whoever has in his possession any instrument or material for the purpose of being used or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of instrument or material for counterfeiting Government stamp.

257. Whoever makes, or performs any part of the process of making, or buys or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Making or selling instrument for counterfeiting Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of

Sale of counterfeit Government stamp.

ir description for a term which may extend to n years, and shall also be liable to fine.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

aving possession interfeit Government stamp.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

ng as genuine a rnment stamp n to be counterfeit.

261. Whoever fraudulently, or with intent to cause loss to Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

facing writing substance bearing Government p or removing document a p used for it, intent to cause to Government.

262. Whoever fraudulently, or with intent cause loss to Government, [illegible] for any purpose a stamp [illegible] by Government for the purp[ose] of revenue, which he knows to have been bef[ore] used, shall be punished with imprisonment of e[ither] description for a term which may extend to two ye[ars] or with fine, or with both

Using a Government stamp known to have been before used.

263. Whoever fraudulently, or with intent [to] cause loss to Government, era[s]es or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed u[pon] such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have [illegible] imprisonment of [illegible] tend to t[illegible]

Erasure of mark denoting that stamp has been used.

Prohibition of fictitious stamps

263A. (1) Whoever—

(a) makes, knowingly utters, deals in, or sells any fictitious stamps, or kno[w]ingly uses for any postal purpose a[ny] fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument, or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

2) Any such stamp, die, plate, instrument, or rials in the possession of any person for making fictitious stamp, may be seized, and shall be eited.

3) In this section 'fictitious stamp' means any np falsely purporting to be issued by Government he purpose of denoting a rate of postage, or any imile or imitation or representation, whether on r or otherwise, of any stamp issued by Governt for that purpose.

(4) In this section and also in section 255 to 263 h inclusive), the word 'Government,' when l in connection with, or in reference to, any np issued for the purpose of denoting a rate postage, shall, notwithstanding anything, in sec- 17, be deemed to include the person or pers authorized by law to administer executive govment in any part of India, and also in any t of Her Majesty's dominions, or in any foreign intry.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

'raudulent use of e instrument for ghing.

264. Whoever fraudulently uses any instrument for weighing, which he knows to be false, shall be punished with imprisonment of either scription for a term which may extend to one year with fine, or with both

'raudulent use of e weight or meae.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of

length or capacity, as a different weight or m[illegible] from what it is, shall be punished with impris[illegible] of either description for a term which may [illegible] to one year, or with fine, or with both.

Being in possession of false weights or measures.

266. Whoever is in possession of any i[illegible]ment for weighing, or [illegible] weight, or of any meas[illegible] length or capacity, whi[illegible] knows to be false, and intending that the[illegible] may be fraudulently used, shall be punished imprisonment of either description for a term [illegible] may extend to one year, or with fine, or both.

Making or selling false weights or measure.

267. Whoever, makes, sells, or disposes o[illegible] instrument for weighing, o[illegible] weight, or any measure of l[illegible] or capacity, which he kno[illegible] be false, in order that the same may be used as or knowing that the same is likely to be used as shall be punished with imprisonment of either [illegible]cription for a term which may extend to one [illegible] or with fine, or with both.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEAL[illegible] SAFETY, CONVENIENCE, DECENCY, AND MORALS.

Public nuisance

268. A person is guilty of a public nui[illegible] who does any act, or is g[illegible] of an illegal omission, wh[illegible] causes any common injury, danger, or annoya[illegible] to the public or to the people in general who d[illegible] or occupy property in the vicinity, or which m[illegible] necessarily cause injury, obstruction, danger, or [illegible]

yance to persons who may have occasion to use y public right.

A common nuisance is not excused on the ground it it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous life, shall be punished with imprisonment of either scription for a term which may extend to six onths, or with fine, or with both

'egligent act likely pread infection of disease dangerous ife.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall punished with imprisonment of either description r a term which may extend to two years, or with ne, or with both.

Malignant act likely spread infection of y disease dangerous life.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any overnment, for putting any vessel into a state of uarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with ther vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Disobedience to quarantine-rule.

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article

Adulteration of food or drink intended for sale

as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medical purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to

used for medicinal purposes by any person not
iowing of the adulteration, shall be punished with
iprisonment of either description for a term which
ay extend to six months, or with fine which may
tend to one thousand rupees, or with both.

Sale of drug as a
ferent drug or pre-
ation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical pre-
ration as a different drug or medical preparation,
all be punished with imprisonment of either
scription for a term which may extend to six
onths, or with fine which may extend to one
ousand rupees, or with both.

Fouling water of
blic spring or re-
voir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for
hich it is ordinarily used, shall be punished with
a term which
ith fine which
with both.

Making atmosphere
xious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of
ersons in general dwelling or carrying on business
i the neighbourhood, or passing along a public
ay, shall be punished with fine which may extend
o five hundred rupees

Rash driving or rid-
g on a public way.

279. Who drives any vehicle, or rides, on any public way, in a manner so rash or negligent as to endanger
uman life, or to be likely to cause hurt or injury
o any other person, shall be punished with im-

prisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash navigation of vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Exhibition of false light, mark, or buoy.

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in unsafe or overloaded vessels.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water, in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever by doing any act, or by omission to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to [ca]use hurt or injury to any person,

[N]egligent conduct [with] respect to poison[ous] substance

or knowingly or negligently omits to take such [ord]er with any poisonous substance in his possession [as] is sufficient to guard against probable danger to [hu]man life from such poisonous substance,

shall be punished with imprisonment of either de[scr]iption for a term which may extend to six months [or] with fine which may extend to one thousand ru[pe]es, or with both.

285. Whoever, does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to [ca]use hurt or injury to any other person,

Negligent conduct [wit]h respect to fire are [com]bustible matter.

or knowingly or negligently omits to take such [or]der with any fire or any combustible matter in his [po]ssession as is sufficient to guard against any pro[ba]ble danger to human life from such fire or com[bu]stible matter,

shall be punished with imprisonment of either de[sc]ription for a term which may extend to six months, [or] with fine which may extend to one thousand ru[pe]es, or with both.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person.

Negligent conduct [wi]th respect to explo[si]ve substance.

or knowingly or negligently omits to take such [o]rder with any explosive substance in his possession

as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to machinery

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to pulling down or repairing buildings

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with impriso-

ment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment for public nuisance in cases not otherwise provided for.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine which may extend to two hundred rupees.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Sale, &c., of obscene books, &c.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

Having in possession obscene book, &c., for sale or exhibition.

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished

with imprisonment of either description for a which may extend to three months, or with fi with both.

Obscene acts and songs.

294. Whoever, to the an ance of others

(a) does any obscene act in any public plac

(b) sings, recites, or utters any obscene s ballad, or words in or near any public place,

shall be punished with imprisonment of ei description for a term which may extend to th months, or with fine, or with both.

Keeping lottery office

294A. Whoever keeps any office or place for t purpose of drawing any lot not authorized by Governm shall be punished with imprisonment of either cription for a term which may extend to six mon or with fine, or with both.

And whoever publishes any proposal to pay sum, or to deliver any goods, or to do or forbear do anything for the benefit of any person, on any ev or conti... ... the drawi of a[n] ... lotter ... exte to one thousand rupees.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION

Injuring or defiling [pl]ace of worship, with [in]tent to insult the [re]ligion of any class.

295. Whoever destroys, damages, or defiles place of worship, or any ob held sacred by any class of p sons, with the intention of the by insulting the religion of a [cl]ass of persons, or with the knowledge that any cl

ersons is likely to consider such destruction; ge, or defilement as an insult to their religion, be punished with imprisonment of either de- tion for a term which may extend to two years, th fine, or with both.

96. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religi- vorship or religious ceremonies shall be punished imprisonment of either description for a term h may extend to one year, or with fine, or with

urbing religious
ly.

97. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any on, or with the knowledge that the feelings of person are likely to be insulted thereby,

passing on bu-
aces, &c.

ommits any trespass in any place of worship, or ny place of sepulchre, or any place set apart for performance of funeral rites, or as a depository he remains of the dead, or offers any indignity ny human corpse, or causes disturbance to any ons assembled for the performance of funeral monies,

shall be punished with imprisonment of either ription for a term which may extend to one year, with fine, or with both.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any ture in the sight of that person, or places any ect in the sight of that person, shall be punished

tering words, &c.,
deliberate intent
wound religious
ngs

(b) A knowing that Z is labouring under such
that a blow is likely to cause his death, strikes
the intention of causing bodily injury Z dies
quence of the blow. A is guilty of murder, alth
blow might not have been sufficient, in the ordina

health, here A, although he may intend to cause bo
jury, is not guilty of murder, if he did not intend
death or such bodily injury as, in the ordinary c
nature, would cause death

(c) A, intentionally gives Z a sword cut or clu
sufficient to cause the death of a man in the ordinar
of nature Z dies in consequence Here A is g
murder, although he may not have intended to c
death

(d) A, without any excuse, fires a loaded cann
a crowd of persons, and kills one of them. A is g
murder, although he may not have had a premeditated
to kill any particular individual

Exception 1.—Culpable homicide is not m

When culpable homicide is not murder.

if the offender, whilst dep
of the power of self-cont
grave and sudden provocation, causes the de
the person who gave the provocation, or cause
death, of any other person by mistake or accide

The above exception is subject to the follo
provisos :—

Firstly.—That the provocation is not sought
voluntarily provoked by the offender as an ex
for killing or doing harm to any person.

Secondly.—That the provocation is not given
anything done in obedience to the law, or by a p
lic servant in the lawful exercise of the power
such public servant.

Thirdly.—That the provocation is not given by ything done in the lawful exercise of the right of vate defence.

Explanation.—Whether the provocation was grave d sudden enough to prevent the offence from ounting to murder is a question of fact.

Illustrations.

(a) A, under the influence of passion excited by a provoion given by Z, intentionally kills Y, Z's child. This murder, inasmuch as the provocation was not given by child, and the death of the child was not caused by acent or misfortune in doing an act caused by the provoion.

(b) Y gives grave and sudden provocation to A. A, on [illegible] at Y, neither intending nor [illegible] to is near him, but [illegible] committed murr, [illegible]

(c) A is lawfully arrested by Z, a bailiff A is excited sudden and violent passion by the arrest, and kills Z. is is murder, inasmuch as the provocation was given by thing done by a public servant in the exercise of his owers

(d) A appears as a witness before Z, a Magistrate. Z ys that he does not believe a word of A's deposition, and at A has perjured himself. A is moved to sudden passion y these words, and kills Z This is murder

(e) A attempts to pull Z's nose Z, in the exercise of e right of private defence, lays hold of A to prevent him om doing so A is moved to sudden and violent passion consequence, and kills Z This is murder, inasmuch as he provocation was given by a thing done in the exercise the right of private defence.

(f) Z strikes B. B is by this provocation excited to iolent rage A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B

may have committed only culpable homicide, but i
of murder.

Exception 2.—Culpable homicide is not m
if the offender, in the exercise, in good fai
the right of private defence of person or pro
exceeds the power given to him by law, and c
the death of the person against whom he is exe
such right of defence, without premeditation,
without any *intention of doing* more harm th
necessary for the purpose of such defence.

Illustration.

Z attempts to horsewhip A, not in such a manne
cause grievous hurt to A. A draws out a pistol. Z p
in the assault. A, believing in good faith that he
no other means prevent himself from being horsewh
shoots Z dead. A has *not committed* murder, b
culpable homicide.

Exception 3.—Culpable homicide is not m
[illegible] public servant, or aiding
[illegible] ient of publi
[illegible] by law, and
[illegible] which he, in good fait
[illegible] for the due disc
[illegible] vant, and withou
will towards the person whose death is caused.

Exception 4.—Culpable homicide is not
der if it is committed without premeditation
sudden fight in the heat of passion upon a su
quarrel, and without the offender's having
undue advantage, or acted in a cruel or un
manner.

Explanation.—It is immaterial in such
which party offers the provocation, or commits
first assault.

xception 5.—Culpable homicide is not murder the person whose death is caused, being above ge of eighteen years, suffers death, or takes the f death, with his own consent.

Illustration.

by instigation, voluntarily causes Z, a person under en years of age, to commit suicide Here, on account youth, he was incapable of giving consent to his own A has therefore abetted murder.

iable homicide using death of other than person whose death was ed.

01. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himo be likely to cause, the culpable homicide comd by the offender is of the description of which uld have been if he had caused the death of the n whose death he intended or knew himself to kely to cause.

ishment for murne.

02. Whoever commits murder shall be punished with death or transportation for life, and shall also be liable ne.

ishment for murr life-convict.

303. Whoever, [illegible]

nishment for culpable homicide not nting to murder.

304. Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life or imprisonment of either ription for a term which may extend to ten years, shall also be liable to fine, if the act by which death is caused is done with the intention of

causing death, or of causing such bodily injury is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

304A. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Causing death by negligence.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide of child or insane person.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of suicide.

307. Whoever does any act with such intention or knowledge, and under such circumstances, that, if he, by that act, caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years

shall also be liable to fine; and, if hurt is caused :y person by *such act, the offender shall be liable* r to transportation for life, or to such punish- : as is hereinbefore mentioned.

Vhen any person offending under this section is under sentence of transportation for life, he may, it hurt is caus- be punished with death.

ımpts by life-con-

Illustrations

ı) A shoots at Z with intention to kill him, under such mstances that, if death ensued, A would be guilty of ler, A is liable to punishment under this section.

ɔ) A, with the intention of causing the death of a child ender years, exposes it in a desert place A has com- ed the offence defined by this section, though the death ıe child does not ensue.

c) A, intending to murder Z, buys a gun, and loads it. ... fires the gun at Z. ... this section; and ... ɔle to the punish- ... first paragraph of section.

(d) A, intending to murder Z by poison, purchases poi- , and mixes the same with food which remains in A's ping. A has not yet committed the offence defined in section A places the food on Z's table, or delivers it Z's servants to place it on Z's table A has committed offence defined in this section

308. Whoever does any act with such intention or knowledge, and under such circumstances, that, if he, by ıt act, caused death, he would be guilty of culpa- ɔ homicide not amounting to murder, shall be ınished with imprisonment of either description for term which may extend to three years or with ıe, or with both; and, if hurt is caused to any

ıttempt to commit pable homicide.

person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z under such circumstances that, if he thereby caused death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with *simple* imprisonment for a term which may extend to *one year*, or with fine, or with both.

Thug.

310. Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of, or accompanied with murder, is a thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three

or with fine, or with both; and, if the wo-
e quick with child, shall be punished with
onment of either description for a term which
tend to seven years, and shall also be liable

planation.—A woman who causes herself to
ry is within the meaning of this section.

3. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick

g miscarriage woman's con-

ild or not, shall be punished with transportar life, or with imprisonment of either description a term which may extend to ten years, and lso be liable to fine.

4. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be

caused by act ith intent to iscarriage.

ed with imprisonment of either description for which may extend to ten years, and shall also le to fine;

d, if the act is done without the consent of the woman, shall be punished either with transportation for life, or he punishment above mentioned.

done without e consent.

xplanation.—It is not essential to this offence the offender should know that the act is likely se death.

15. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and

lone with intent ent child being live, or to cause after birth.

person by such act, shall be punished with in sonment of either description for a term w may extend to seven years, or with fine, or both.

Illustration.

A, on grave and sudden provocation, fires a p Z under such circumstances that, if he thereby c death, he would be guilty of culpable homicide not a ing to murder. A has committed the offence defin this section.

309. Whoever attempts to commit suicide, does any act towards the c mission of such offence, be punished with simple imprisonment for a which may extend to one year, or with fine, or both.

Attempt to commit suicide.

310. Whoever, at any time after the passin this Act, shall have been h tually associated with any o or others for the purpose of committing robber child-stealing by means of, or accompanied murder, is a thug.

Thug.

311. Whoever is a thug shall be punished transportation for life, and also be liable to fine.

Punishment.

Of the Causing of Miscarriage; of Injuries to Un Children; of the Exposure of Infants; and of Concealment of Births.

312. Whoever voluntarily causes a woman child to miscarry shall, if miscarriage be not caused good faith for the purpose of saving the life the woman, be punished with imprisonment of ei description for a term which may extend to th

Causing miscarriage.

, or with fine, or with both; and, if the wo- be quick with child, shall be punished with isonment of either description for a term which extend to seven years, and shall also be liable ie.

Explanation.—A woman who causes herself to arry is within the meaning of this section.

13. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick child or not, shall be punished with transportafor life, or with imprisonment of either descripfor a term which may extend to ten years, and also be liable to fine.

ing miscarriage it woman's con-

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be shed with imprisonment of either description for 'm which may extend to ten years, and shall also iable to fine;

th caused by act with intent to miscarriage

nd, if the act is done without the consent of the woman, shall be punished either with transportation for life, or the punishment above mentioned.

ict done without in's consent.

Explanation.—It is not essential to this offence the offender should know that the act is likely ause death.

315. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and

t done with intent event child being alive, or to cause die after birth.

does by such act prevent that child from be[ing] born alive, or causes it to die after its birth, sh[all,] if such act be not caused in good faith for th[e] purpose of saving the life of the mother, be puni[shed] with imprisonment of either description for a te[rm] which may extend to ten years, or with fine, or wi[th] both.

316. Whoever does any act under such circ[um]stances that, if he thereby ca[us]ed death, he would be gu[ilty] of culpable homicide, and d[oes] by such act cause the de[ath] of a quick unborn child, shall be punished w[ith] imprisonment of either description for a term wh[ich] may extend to ten years, and shall also be liable [to] fine.

Causing death of quick unborn child by act amounting to culpable homicide.

Illustration.

A, knowing that he is likely to cause the death [of a] pregnant woman, does an act which, if it caused the de[ath] of the woman, would amount to culpable homicide, [and the] woman is injured, but does not die, but the death of [an] unborn quick child with which she is pregnant is the[reby] caused. A is guilty of the offence defined in this sectio[n].

317. Whoever, being the father or mother [of a] child under the age of tw[elve] years, or having the care of [such] child, shall expose or leave s[uch] child in any place with the [in]tention of wholly abandon[ing] such child, shall be punished with imprisonmen[t of] either description for a term which may exten[d to] seven years, or with fine, or with both.

Exposure and abandonment of child under twelve years by parent or person having care of it.

Explanation.—This section is not intended to [pre]vent the trial of the offender for murder or cul[pable]

micide, as the case may be, if the child die in con-
quence of the exposure.

318. Whoever, by secret burying, or otherwise disposing of, the dead body of a child, whether such child die before, or after, or during its th, intentionally conceals, or endeavours to conl, the birth of such child, shall be punished with prisonment of either description for a term which y extend to two years, or with fine, or with both.

ncealment of birth secret disposal of l body.

Of Hurt.

319. Whoever causes bodily pain, disease, or infirmity, to any person, is said to cause hurt.

Hurt.

320. The following kinds of hurt only are designated as grievous:"—

Grievous hurt.

First.—Emasculation

Secondly.—Permanent privation of the sight of ther eye.

Thirdly.—Permanent privation of the hearing either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanant impairing of he powers of any member or joint.

Sixthly.—Permanent disfiguration of the head r face.

Seventhly.—Fracture or dislocation of a bone or ooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of

twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

ŀ. Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or ;, or any instrument which, used as a weapon nce, is likely to cause death, or by means of fire heated substance, or by means of any poison corrosive substance, or by means of any explosive ıbstance, or by means of any substance which eleterious to the human body to inhale, to w, or to receive into the blood, or by means animal, shall be punished with imprisonment er description for a term which may extend to years, or with fine, or with both.

tarily causing langerous weameans.

5. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either desɔn for a term which may extend to seven years, ıall also be liable to fine

hment for voy causing grievous hurt.

26. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument ı, used as a weapon of offence, is likely to cause ı, or by means of fire or any heated substance, means of any poison or any corrosive substance, means of any explosive substance, or by means y substance which it is deleterious to the human to inhale, to swallow, or to receive into the l, or by means of any animal, shall ...

ntarily causing s hurt by dangerous weapons or

327. Whoever voluntarily causes hurt for purpose of extorting from sufferer, or from any person terested in the sufferer, any perty or valuable security, constraining the sufferer or any person interested such sufferer to do anything which is illegal which may facilitate the commission of an offence shall be punished with imprisonment of either scription for a term which may exend to ten y and shall also be liable to fine.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

328. Whoever administers to, or causes t taken by, any person any po or any stupefying, intoxic or unwholesome drug or o thing, with intent to cause h to such person, or with intent to commit or to fa tate the commission of an offence, or knowing be likely that he will thereby cause hurt, shall punished with imprisonment of either description be liable to a term which may extend to ten ye and shall also fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

329. Whoever voluntarily causes grievous h for the purpose of extorting the sufferer, or from any per interested in the sufferer, property or valuable security, of constraining the sufferer ... erer to do anyth ... ilitate the com ... hed with trans ... either descript for a term which may extend to ten years, and sh also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

330. Whoever, voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore, or to cause the restoration of, any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

Illustrations.

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime A is guilty of an offence under this section.

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited A is guilty of an offence under this section

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z A is guilty of an offence under this section

(d) A, a zemindar, tortures a raiyat in order to compel him to pay his rent A is guilty of an offence under this section

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interest-

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property

ed in the sufferer to restore, or to cause the re ration of any property or valuable security, to satisfy any claim or demand, or to give info ation which may lead to the restoration of any pro perty or valuable security, shall be punished imprisonment of either description for a term w may extend to ten years, and shall also be liabl fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any p son being a public servant in discharge of his duty as s public servant, or with intent prevent or deter that person or any other public se vant from discharging his duty as such public se vant, or in consequence of anything done or att m ed to be done by that person in the lawful discha of his duty as such public servant, shall be puni with imprisonment of either description for a te which may extend to three years, or with fine, or both.

Voluntarily causing grievous hurt to deter public servant from his duty

333. Whoever voluntarily causes grievous hu to any person being a public se vant in the discharge of his du as such public servant, or w intent to prevent or deter th person or any other public servant from discharg his duty as such public servant, or in conseque of anything done or attempted to be done by th person, in the lawful discharge of his duty as s public servant, shall be punished with imprisonm of either description for a term which may exte to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

334. Whoever voluntarily causes hurt on gra and sudden provocation, if he ne ther intends nor knows him

be likely to cause hurt to any person other than
›person who gave the provocation, shall be pun-
ed with imprisonment of either description for a
m which may extend to one month, or with fine
ich may extend to five hundred rupees, or with
th.

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to

oluntarily causing vous hurt on provation.

ıse grievous hurt to any person other than the
rson who gave the provocation, shall be punished
th imprisonment of either description for a term
ich may extend to four years, or with fine which
ıy extend to two thousand rupees, or with both.

Explanation.—The last two sections are subject the same provisos as exception 1, section 300.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with im-

ct endangering life personal safety of ers.

isonment of either description for a term which
ıy extend to three months, or with fine which may
tend to two hundred and fifty rupees, or with
th.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life

Causing hurt by act dangering life or rsonal safety of ers.

ent of [illegible]
nd to [illegible]
five hundred rupees, or with both.

338. Whoever causes grievous hurt to any p by doing any act so rash negligently as to endanger human life or the personal s of others shall be punished imprisonment of either description for a term w may extend to two years, or with fine which extend to one thousand rupees, or with both.

Causing grievous hurt by act endangering life or personal safety of others

Of Wrongful Restraint and Wrongful Confine

339. Whoever voluntarily obstructs any per so as to prevent that person f proceeding in any direct which that person has a right to proceed, is s wrongfully to restrain that person.

Wrongful restraint.

Exception.—The obstruction of a private w over land or water, which a person, in good f believes himself to have a lawful right to obstr is not an offence within the meaning of this sec

Illustration.

A obstructs a path along which Z has a right to pa not believing in good faith that he has a right to st path Z is thereby prevented from passing A wron restrains Z

340. Whoever wrongfully restrains any p in such a manner as to pre that person from proceed yond certain circumscribing limits is said "w fully to confine" that person.

Wrongful confinement

Illustrations.

(a) A causes Z to go within a walled space, and lo in Z is thus prevented from proceeding in any d beyond the circumscribing line of wall. A wrongfully fines Z

A places men with fire-arms at the outlets of a build- id tells Z that they will fire at Z if Z attempts to he building. A wrongfully confines Z.

41. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which extend to one month or with fine which may d to five hundred rupees, or with both.

ishment for ul restraint

42. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a which may extend to one year, or with fine may extend to one thousand rupees or with

ishment for ul confinement.

43 Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term h may extend to two years, or with fine, or with

ongful confine- or three or more

44. Whoever wrongfully confines any parson for ten days or more shall be punished with imprisonment of either description for a term h may extend to three years, and shall be liable ne.

ongful confine- for ten or more

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of er description for a term which may extend to years, in addition to any term of imprisonment which he may be liable under any other section his chapter.

ongful confine- of person for liberation writ een issued.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to, or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement to extort property or constrain to illegal act.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person, to do anything illegal, or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement to extort confession or compel restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore, or to cause the restoration of, any property or valuable security, or to

isfy any claim or demand, or to give information ich may lead to the restoration of any property or uable security, shall be punished with imprisonnt of either description for a term which may exıd to three years, and shall also be liable to fine.

Of Criminal Force and Assault.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion that other, or if he causes to any subsnce such motion, or change of motion or cesion of motion as brings that substance into cont with any part of that other's body, or with ything which that other is wearing or carry-, or with anything so situated that such contact ects that other's sense of feeling:

orce.

Provided that the person causing the motion, or ange of motion, or cessation of motion, causes that otion, change of motion, cessation of motion, in e of the three ways hereinafter described:—

First.—By his own bodily power.

Secondly.—By disposing any substance in such a anner that the motion or change or cessation of moon takes place without any further act on his part on the part of any other person.

Thirdly.—By inducing any animal to move, to ange its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committng of any offence, or intending by the use of such orce to cause, or knowing it to be likely that, by the se of such force, he will cause injury, fear, or an-

Criminal force.

noyance to the person to whom the force is used, said to use criminal force to that other.

Illustrations.

(a) Z is sitting in a moored boat on a river ...

on a[illegible] ... intention[illegible] force ... order ... know ... jury, fear, or annoyance to Z, A has used crimin[illegible] to Z.

(b) Z is riding in a chariot. A lashes Z's horse[s] thereby causes them to quicken their pace. Here caused change of motion to Z by inducing the an[imals to] change their motion. A has therefore used force to Z if A has done this without Z's consent, intending or [know]ing it to be likely that he may thereby injure, fright[en, or] annoy Z, A has used criminal force to Z.

(c) Z is riding in a palanquin. A intending to r[ob Z] seizes the pole, and stops the palanquin. Here A ... has done th[is] ... used force ... [wit]hout Z's con[sent] ... has used cr[iminal force] ...

(d) A ... against Z in the street. ... A has, b[y] ... as to bri[ng] ... tionally ... without Z['s] consent, intending or knowing it to be likely that he m[ay] thereby injure, frighten, or annoy Z, he has used crimi[nal] force to Z.

(e) A throws a stone intending or knowing it to [be] likely that the stone will be thus brought into contact w[ith] Z, or with Z's clothes, or with something carried by Z, o[r] that it will strike water, and dash up the water against Z...

s, or something carried by Z. Here, if the throwing stone produce the effect of causing any substance to into contact with Z or Z's clothes, A has used force and if he did so without Z's consent, intending there- injure, frighten, or annoy Z, he has used criminal to Z.

) A intentionally pulls up a woman's veil. Here A and if he does so without ing it to be likely that he annoy her, he has used

yance to Z, A has used criminal force

h) A incites a dog to spring upon Z without Z's con- *Here, if A intends to cause injury, fear, or annoy-* to Z, he uses criminal force to Z

351. Whoever makes any gesture or any pre- paration, intending or knowing it to be likely that such gesture preparation will cause any person present to rehend that he who makes that gesture or pre- ation is about to use criminal force to that person, said to commit an assault

ssault.

Explanation—Mere words do not amount to an ault. But the words which a person uses may re to his gestures or preparations such a meaning may make those gestures or preparations amount an assault.

Illustrations.

(*a*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be *likely* that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating" Here, though *the words* used by A could in no case amount to an assault, and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for assault or criminal force otherwise than on grave provocation.

Explanation —Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter

or criminal
ter a public
m discharge
y.

son from discharging his duty as such public or in consequence of anything done, or ed to be done, by such person in the lawful ... ll be ... for ... fine,

both.

. Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage, her modesty, shall be punished with

or criminal
woman with
outrage her

ment of either description for a term which end to two years, or with fine, or with both.

or
h it
person other-
n on grave
n.

than on grave and sudden provocation given by that person, shall be punished with imprisonment either description for a term which may to two years, or with fine, or with both.

. Whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying shall be punished with imprisonment of either description a term which may extend to two years, or e, or with both.

or criminal
attempt to
heft of pro-
ried by a per-

357. Whoever assults or uses criminal force to any person in attepting wrongfully to confine that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Assault or criminal force in attempt wrongfully to confine person.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Assault or criminal force on grave provocation

Explanation —The last section is subject to the same explanation as section 352.

Of Kidnapping, Abduction, Slavery, and Forced La

359. Kidnapping is of two kinds : kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping

360 Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to consent in behalf of that person, is said to kidnap that person from British India.

Kidnapping from British India

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Kidnapping from lawful guardianship

Explanation.—The words "lawful guardian" in section include any person lawfully entrusted h the care or custody of such minor or other son.

Exception.—This section does not extend to the of any person who, in good faith, believes him-f to be the father of an illegitimate child, or who, good faith, believes himself to be entitled to the wful custody of such child, unless such act is com-tted for an immoral or unlawful purpose.

362. Whoever by the force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

bduction.

363. Whoever kidnaps any person from British India or from lawful guardianship shall be punished with im-isonment of either description for a term which ay extend to seven years, and shall also be liable fine.

nishment for kid-pping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of be-ng murdered, shall be punished with transportation or life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable o fine.

Kidnapping or ab-cting in order to urder.

Illustrations.

[illegible] or know-
[illegible] idol. A
[illegible] his home
n order that B may be murdered. A has committed the ffence defined in this section.

Kidnapping or abducting with intent secretly and wrongfully to confine person

365. Whoever kidnaps or abducts any pe[rson] with intent to cause that per[son] to be secretly and wrongf[ully] confined shall be punished w[ith] imprisonment of either descri[p]tion for a term which may extend to seven ye[ars] and shall also be liable to fine.

Kidnapping or abducting woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any wom[an] with intent that she may [be] compelled, or knowing it to [be] likely that she will be compelle[d] to marry any person against he[r] will, or in order that she may be forced or seduc[ed] to illicit intercourse, or knowing it to be likely th[at] she will be forced or seduced to illicit intercour[se] shall be punished with imprisonment of either de[s]cription for a term which may extend to ten year[s] and shall also be liable to fine.

Kidnapping or abducting in order to subject person to grievous hurt, slavery, &c

367. Whoever kidnaps or abducts any person i[n] order that such person may b[e] subjected, or may be so dispos[ed] of as to be put in danger o[f] . . . . . grievous hu[rt] . . . natural lust of an . . . that such persor . . . shall be punishe . . . for a term . . . shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped or abducted person.

368. Whoever, knowing that any person ha[s] been kidnapped or has been ab[ducted], wrongfully conceals or confines such person, shall be punished in the same manner as [i]f he had kidnapped or abducted such person with

ıme intention or knowledge, or for the same ɔse as that with or for which he conceals or ns such person in confinement.

69. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child shall be ɔhed with imprisonment of either description for m which may extend to seven years, and shall be liable to fine.

ɔapping or ab- g child under ɪrs with intent to rom its person.

ı70. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will, any ɔn as a slave, shall be punished with imprisont of either description for a term which may nd to saven years, and shall also be liable to

ɪng or disposing ɪy person as a

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished ı transportation for life, or with imprisonment of er description for a term not exceeding ten years, shall also be liable to fine.

bitual dealing in ı.

372 Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be emɣed or used for the purpose of prostitution, or for · unlawful and immoral purpose, or knowing ɪ be likely that such minor will be employed d for any such purpose, shall be punished w ɔrisonment of either description for a term wh

lling minor for oses of prostitu- &c.

may extend to ten years, and shall also be lia[ble to]
fine.

Buying minor for purposes of prostitution, &c

373. Whoever buys, hires, or otherwise ob[tains] possession of, any minor [under] the age of sixteen years, [with] intent that such minor sh[all be] employed or used for the purpose of prostitutio[n or] for any unlawful and immoral purpose, or kno[wing] it to be likely that such minor will be employ[ed or] used for any such purpose, shall be punished [with] imprisonment of either description for a term w[hich] may extend to ten years, and shall also be li[able to] fine.

Unlawful compulsory labour

374. Whoever unlawfully compels any pe[rson] to labour against the will of [that] person shall be punished [with] imprisonment of either description for a term wh[ich] may extend to one year, or with fine, or with b[oth].

Of Rape.

Rape

375. A man is said to commit "rape" w[ho], except, in the case herein[after] excepted has sexual intercou[rse] with a woman under circumstances falling u[nder] any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her con[sent] has been obtained by putting her in fear of death [or] of hurt.

Fourthly.—With her consent, when the m[an] knows that he is not her husband, and that her co[n]sent is given because she believes that he is an[other]

;o whom she is, or believes herself to be, law- married.

ifthly.—With or without her consent, when she der twelve years of age.

xplanation.—Penetration is sufficient to con- e the sexual intercourse necessary to the offence e.

xception.—Sexual intercourse by a man with vn wife, the wife not being under twelve years e, is not rape.

76. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either iption for a term which may extend to ten years, hall also be liable to fine.

shment for rape.

Of Unnatural Offences.

77. Whoever voluntarily has carnal inter- course against the order of na- ture with any man, woman, or al, shall be punished with transportation for or with imprisonment of either description for n which may extend to ten years, and shall be liable to fine.

atural offences

Explanation.—Penetration is sufficient to con- e the carnal intercourse necessary to the offence ibed in this section

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CHAPTER XVII.

Of Offences against Property.

Of Theft.

78. Whoever, intending to take dishonestly any moveable property out of the possession of any person

ft.

without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing, so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person who by any mean[illegible] [illegible] that animal [illegible] ence of the [illegible] [illegible]l.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority, either express or implied.

Illustrations.

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

[illegible] and thus in [illegible] tention be dis[illegible] on without [illegible] Z's dog has [illegible]

(c) A meets a bullock carrying a box of treasure. F[illegible] drives the bullock in a certain direction, in order that he

y dishonestly take the treasure. As soon as the bullock to move, A has committed theft of the treasure

) A, being Z's servant, and entrusted by Z with the f Z's plate, dishonestly runs away with the plate, it Z's consent. A has committed theft.

Z, going on a journey, entrust his plate to A, the r of a warehouse, till Z shall return. A carries the to a goldsmith, and sells it Here the plate was not possession. It could not therefore be taken out of ssession, and A has not committed theft, though he ave committed criminal breach of trust.

A finds a ring belonging to Z on a table in the house Z occupies Here the ring is in Z's possession, and, ishonestly removes it, A commits theft.

A finds a ring lying on the high road, not in the sion of any person. A, by taking it, commits no theft, h he may commit criminal misappropriation of pro-

A sees a ring belonging to Z lying on a table in Z's . Not venturing to misappropriate the ring immey for fear of search and detection, A hides the ring

) A delivers his watch to Z, a jeweller, to be regulated. ries it to his shop A, not owing the jeweller any debt hich the jeweller might lawfully detain the watch as a ity, enters the shop openly, takes his watch by force f Z's hand, and carries it away Here A, though he have committed criminal trespass and assault, has not nitted theft, inasmuch as what he did was not done nestly.

) If A owes money to Z

(*k*) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid to him what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly. A has therefore committed theft.

(*m*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book If this was A's impression, A has not committed theft

(*n*) A asks charity from Z's wife She gives A money, food, and clothes, which A knows to belong to Z, her husband Here it is probable that A may conceive that Z's wife is authorized to give away alms If this was A's impression, A has not committed theft

(*o*) A is the paramour of Z's wife. She gives A valuable property which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

[illegible] belonging to Z [illegible] it of B's p[illegible] he does n[illegible]

commit theft

379 Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Punishment for theft.

380. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human

Theft in dwelling-house, &c

welling, or for the custody of property, shall be unished with imprisonment of either description or a term which may extend to seven years, and hall also be liable to fine.

Theft, by clerk or ervant, of property n possession of master

381. Whoever, being a clerk or servant, or being employed in the capacity of [illegible]

oyer, shall be punished with imprisonment of either lescription for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing leath or hurt or restraint in order to the committing of the theft

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(a) A commits theft of property in Z's possession, and, [illegible] der [illegible] of [illegible] the [illegible]

(b) A picks Z's pocket, having posted several of his com- [illegible]

Of Extortion.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed, which may be converted into a valuable security, commits "extortion."

Illustrations.

(*a*) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion

(*b*) A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.

[illegible] to plough up Z's [illegible]

(*d*) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A Z signs and delivers the paper to A. Here as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

384 Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Putting person in fear of injury in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be

nished with imprisonment of either description r a term which may extend to two years, or with ie, or with both.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished ith imprisonment of either description for a term hich may extend to ten years, and shall also be lible to fine.

Extortion by putting a person in fear of ath or grievous hurt

387. Whoever, in order to the committing of extortion, puts or attempts to put any person, in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be iable to fine.

'utting person in fear death or of grievous irt, in order to commit extortion

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed, or attempted to commit, any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with transportation for life.

Extortion by threat f accusation of an ofence punishable with leath or transportation, &c.

Putting person in fear of accusation of offence in order to commit extortion.

389. Whoever, in order to the committing of extortion, puts, or attempts to put, any person in fear of an accusation against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be [illegible] imprisonment of either description for a term [illegible] and shall also [illegible] punishable under section 377 of this Code, may be punished with transportation for life.

Of Robbery and Dacoity.

Robbery.

390. In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away, or attempting to carry away, property obtained by the theft, the offender, for that end, voluntarily causes, or attempts to cause, to any person, death or hurt, or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

ination.—The offender is said to be present ufficiently near to put the other person in istant death, of instant hurt, or of instant restraint.

Illustrations.

holds Z down, and fraudulently takes Z's money ... onsent Here A ... e committing of ... restraint to Z.

neets Z on the high road, shows a pistol, and Z's purse. Z, in consequence, surrenders his purse. s extorted the purse from Z by putting him in tant hurt, and being, at the time of committing ion, in his presence A has therefore committed

neets Z and Z's child on the high road A takes and threatens to fling it down a precipice, unless his purse Z, in consequence, delivers his purse. as extorted the purse from Z by causing Z to be instant hurt to the child who is there present. A fore committed robbery on Z

obtains property from Z by saying · "Your child is nds of my gang, and will be put to death unless us ten thousand rupees" This is extortion, and, le as such, but it is not robbery, unless Z is put the instant death of his child

When five or more persons conjointly commit, or attempt to commit, a robbery, or, where the whole of persons conjointly committing, or attempt- ommit, a robbery, and persons present and uch commission or attempt, amount to five or very person so committing, attempting, or is said to commit "dacoity."

392. Whoever commits robbery shall be pu[illegible] ed with rigorous impri[illegible] for a term which may ext[illegible] ten years, and shall also be liable to fine; and, if [illegible] robbery be committed on the highway between [illegible] and sunrise, the imprisonment may be exte[illegible] fourteen years.

Punishment for robbery

393. Whoever attempts to commit robbery [illegible] be punished with rigorous [illegible] prisonment for a term which [illegible] extend to seven years, and shall also be liable to [illegible]

Attempt to commit robbery

394 If any person, in committing, or in atte[illegible] ing to commit, robbery, vo[illegible] tarily causes hurt, such p[illegible] and any other person jointly c[illegible] cerned in committing, or attempting to commit, [illegible] robbery, shall be punished with transportation for [illegible] or with rigorous imprisonment for a term which [illegible] extend to ten years, and shall also be liable to fi[illegible]

Voluntarily causing hurt in committing robbery.

395. Whoever commits dacoity shall be pu[illegible] ed with transportation for l[illegible] or with rigorous impriso[illegible] for a term which may extend to ten years, and sh[illegible] also be liable to fine.

Punishment for dacoity.

396. If any one of five or more persons, [illegible] are conjointly committing da[illegible] ty, commits murder in so co[illegible] mitting dacoity, every one of those persons sha[illegible] punished with death, or transportation for life, [illegible] rigorous imprisonment for a term which may ex[illegible] to ten years, and shall also be liable to fine.

Dacoity with murder.

397. If, at the time of committing robbery [illegible] dacoity, the offender uses [illegible] deadly weapon, or causes gri[illegible] ous hurt to any person, or [illegible]

Robbery or dacoity, with attempt to cause death or grievous hurt.

) cause death or grievous hurt to any person, isonment with which such offender shall be l shall not be less than seven years.

to commit or dacoity l with dead-

If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be l shall not be less than seven years.

preparation dacoity.

Whoever makes any preparation for committing dacoity shall be punished with rigorous imprisonment for which may extend to ten years, and shall also to fine.

ıent for be- a gang of

Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing shall be punished with transportation for with rigorous imprisonment for a term which end to ten years, and shall also be liable to

nent for be- o a gang of

. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose ually committing theft or robbery, and not gang of thugs or dacoits, shall be punished

ling for pur- committing

... passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity,

shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine

Of Criminal Misappropriation of Property

403 Whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest misappropriation of property.

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession, in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression [illegible] for the purpose [illegible] But, if A [illegible] is guilty [illegible] offence under this section.

(*c*) A and B being joint-owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse, and appropriates the whole proceeds to his own use, he is guilty of an offence under this section

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note

gs to Z, pledges it with a banker as a security for a
ending at a future time to restore it to Z. A has
l an offence under this section.

lanation 2.—A person who finds property
le possession of any other person, and takes
perty for the purpose of protecting it for, or
ing it to, the owner, does not take or misap-
e it dishonestly, and is not guilty of an of-
ut he is guilty of the offence above defined
... knows
· before
ad give
o the owner, and has kept the property a
ole time to enable the owner to claim it.

at are reasonable means, or what is a reason-
ne, in such a case is a question of fact.

i not necessary that the finder should know
the owner of the property, or that any parti-
erson is the owner of it; it is sufficient if, at
e of appropriating it, he does *not believe it to*
own property, or in good faith believes that
l owner cannot found.

Illustrations.

A finds a rupee on the high road, not knowing to
ne rupee belongs A picks up the rupee. Here A
committed the offence defined in this section.

A finds a letter on the road, containing a bank-note.
ne direction and contents of the letter he learns to
he note belongs He appropriates the note. He is
of an offence under this section.

A finds a cheque payable to bearer He can form
jecture as to the person who has lost the cheque
e name of the person who has drawn the cheque ap-
A knows that this person can direct him to the per-
whose favour the cheque was drawn. A appropriates

the cheque without attempting to discover the owner, A is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offender, at the time of such person's decease, was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly

le touching the discharge of such trust, or · suffers any other person so to do, commits ıal breach of trust."

Illustrations.

., being executor to the will of a deceased person, tly disobeys the law which directs him to divide ts according to the will, and appropriates them to use A has committed criminal breach of trust.

ı is a warehouse-keeper Z, going on a journey, his furniture to A under a contract that it shall be l on payment of a stipulated sum for warehouse- A dishonestly sells the goods A has committed l breach of trust

A, residing in Calcutta, is agent for Z residing at There is an express or implied contract between A hat all sums remitted by Z to A shall be invested cording to Z's direction Z remits a lakh of rupees ith directions to A to invest the same in Company's A dishonestly disobeys the directions, and employs ıey in his own business A has committed criminal of trust

But if A, in the last illustration, not dishonestly, good faith, believing that it will be more for Z's ad- e to hold shares in the Bank of Bengal, disobeys ections and buys shares in the Bank of Bengal for tead of buying Company's paper, here, though Z suffer loss, and should be entitled to bring a civil against A on account of that loss, yet A, not hav- ted dishonestly, has not committed criminal breach ıt

A, a revenue-officer, is entrusted with public money, either directed by law or bound by a contract, ex- ɔr implied, with the Government, to pay into a cer-

tain treasury all the public money which he holds honestly appropriates the money A has committed nal breach of trust.

(*f*) A, a carrier, is entrusted by Z with property carried by land or by water. A dishonestly mis priates the property. A has committed criminal br trust.

406. Whoever commits criminal breach of shall be punished with im sonment of either descrip for a term which may extend to three years, or w fine, or with both.

Punishment for criminal breach of trust.

407. Whoever, being entrusted with prop as a carrier, wharfinger, or w house-keeper, commits crim breach of trust in respect of such property, sha punished with imprisonment of either description a term which may extend to seven years, and sh also be liable to fine.

Criminal breach of trust by carrier, &c.

408. Whoever, being a clerk or servant, or em ployed as a clerk or servant, an being in any manner entrusted in such capacity with property or with any dominion over property, commits cr minal breach of trust in respect of that property shall be punished with imprisonment of either d cription for a term which may extend to seven year and shall also be liable to fine.

Criminal breach of trust by a clerk or servant

409. Whoever, being any manner entrusted with property, or with any do minion over property, in h capacity of a public servant o in the way of his business a a banker, merchant, factor, broker, attorney, or agent commits criminal breach of trust in respect of that

Criminal breach of trust by public servant, or by banker, merchant, or agent

›perty, shall be punished with transportation for ;, or with imprisonment of either description for erm which may extend to ten years, and shall also liable to fine.

Of the Receiving of Stolen Property.

410. Property the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, in respect of which criminal breach of trust has en committed, is designated as stolen property, ıether the transfer has been made, or the mispropriation or breach of trust has been committed, thin or without British India. But, if such property subsequently comes into the possession of a rson legally entitled to the possession thereof, it en ceases to be stolen property.

tolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the me to be stolen property, shall be punished with ıprisonment of either description for a term which ay extend to three years, or with fine, or with oth.

Dishonestly receiv- ; stolen property

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission ? dacoity, or dishonestly receives from a person hom he knows or has reason to believe to belong, r to have belonged, to a gang of dacoits, property hich he knows or has reason to believe to have een stolen, shall be punished with transportation

Dishonestly receiv- g stolen property in e commission of a coity.

for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of, or making away with, property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Of Cheating

Cheating

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes, or is likely to cause, damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces

im have on credit goods for which he does not mean . A cheats.

A, by putting a counterfeit mark on an article, in-ally deceives Z into a belief that this article was y a certain celebrated manufacturer, and thus dis-ly induces Z to buy and pay for the article. A .

A, by exhibiting to Z a false sample of an article, onally deceives Z into believing that the article onds with the sample, and thereby dishonestly in-Z to buy and pay for the article. A cheats.

A, by tendering in payment for an article a bill on e with which A keeps no money, and by which A s that the bill will be dishonoured, intentionally s Z, and thereby dishonestly induces Z to deliver icle, intending not to pay for it A cheats

A, by pledging as diamonds articles which he knows t diamonds, intentionally deceives Z and thereby dis-ly induces Z to lend money. A cheats

A intentionally deceives Z into a belief that A means ay any money that Z may lend to him, and thereby iestly induces Z to lend him money, A not intending ay it A cheats

A intentionally deceives Z into a belief that A means iver to Z a certain quantity of indigo-plant which he iot intend to deliver, and thereby dishonestly induces advance money upon the faith of such delivery. A s But, if A, at the time of obtaining the money, ds to deliver the indigo plant, and afterwards breaks ontract, and does not deliver it, he does not cheat, but ble only to a civil action for breach of contract

) A intentionally deceives Z into a belief that A has rmed A's part of a contract made with Z, which he ot performed, and thereby dishonestly induces Z to noney. A cheats

) A sells and conveys an estate to B A, knowing that, nsequence of such sale, he has no right to the proper-lls or mortgages the same to Z without disclosing the

fact of the previous sale and conveyance to B, and rece the purchase or mortgage-money from Z A cheats

Cheating by personation

416. A person is said to "cheat by personat if he cheats by pretending to some other person, or by kn ingly substituting one person for another, or rep senting that he or any other person is a person ot than he or such other person really is.

Explanation.—The offence is committed whet the individual personated is a real or imaginary p son.

Illustrations.

(a) A cheats by pretending to be a certain rich far of the same name A cheats by personation

(b) A cheats by pretending to be B, a person who d ceased A cheats by personation

Punishment for cheating

417. Whoever cheats shall be punished w imprisonment of either descr tion for a term which may tend to one year, or with fine, or with both

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

418. Whoever cheats with the knowledge t he is likely thereby to ca wrongful loss to a person wh interest in the transaction which the cheating relates was bound, either by law or a legal contract, to protect, shall be punished w imprisonment of either description for a term wh may extend to three years, or with fine, or with bo

Punishment for cheating by personation

419. Whoever cheats by personation shall punished with imprisonment either description for a te which may extend to three years, or with fine, with both.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy

eating and disho-
y inducing a deli-
of property.

who'- -
ig wl
eing
ishec
rm which may extend to seven years, and shall be liable to fine.

Of Fraudulent Deeds and Dispositions of Property.

421. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred, to any person, without adequate consideration, any property, intending reby to prevent, or knowing it to be likely that will thereby prevent, the distribution of that pro-ty according to law among his creditors or the ditors of any other person, shall be punished with prisonment of either description for a term which iy extend to two years, or with fine, or with th.

shonest or fraudu-
removal or con-
ment of property
revent distribution
ng creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of s debts or the debts of such other person shall be nished with imprisonment of either description for term which may extend to two years, or with fine, with both.

ishonestly or frau-
ently preventing
it being available
creditors

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

423. Whoever dishonestly or fraudulently s executes, or becomes a party t any deed or instrument wh purports to transfer or sub to any charge any property any interest therein, and wh contains any false statement relating to the consi tion for such transfer or charge, or relating to t person or persons for whose use or benefit it is in intended to operate, shall be punished with impris ment of either description for a term which may e tend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property

424. Whoever dishonestly or fraudulently c ceals or removes any proper himself or any other person dishonestly or fraudulently ... [illegible] two years or with fine, or with both.

Of Mischief.

Mischief

425. Whoever, with intent to cause, or k ing that he is likely to wrongful loss or damage t public, or to any person, causes the destruct any property, or any such charge in any prop or in the situation thereof, as destroys or dim its value or utility, or affects it injuriously, co "mischief."

Explanation 1.—It is not essential to the off of mischief that the offender should intend to c loss or damage to the owner of the property inj or destroyed. It is sufficient if he intends to cau

nows that he is likely to cause, wrongful loss or ıage to any person by injuring any property ıther it belongs to that person or not.

Explanation 2.—Mischief may be committed by act affecting property belonging to the person › commits the act, or to that person and others ıtly.

Illustrations.

(a) A voluntarily burns a valuable security belonging to ntending to cause wrongful loss to Z. A has committed chief.

(b) A introduces water into an ice-house belonging to ınd thus causes the ice to melt, intending wrongful loss Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to with the intention of thereby causing wrongful loss to Z ıas committed mischief

(d) A, knowing that his effects are about to be taken in cution in order to satisfy a debt due from him to Z troys those effects with the intention of thereby prevent- Z from obtaining satisfaction of the debt, and of thus ısing damage to Z A has committed mischief.

(e) A, having insured a ship, voluntarily causes the same be cast away, with the intention of causing damage to › underwriters A has committed mischief.

(f) A causes a ship to be cast away, intending thereby cause damage to Z, who has lent money on bottomry on e ship A has committed mischief.

(g) A, having joint-property with Z in a horse, shoots e horse, intending thereby to cause wrongful loss to Z has committed mischief

(h) A causes cattle to enter upon a field belonging to Z, tending to cause, and knowing that he is likely to cause, ımage to Z's crop. A has committed mischief.

Punishment for mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Mischief, causing damage to the amount of fifty rupees.

427. Whoever commits mischief, and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming animal of the value of ten rupees

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle &c., of any value, or any animal of the value of fifty rupees

429. Whoever commits mischief by killing, poisoning maiming, or rendering useless any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both

Mischief by injury to works of irrigation, or by wrongfully diverting water

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings, or for animals

property, or for cleanliness, or for carry-
ıy manufacture, shall be punished with
ıent of either description for a term which
nd to five years, or with fine, or with

Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable avigable channel, natural or artificial, im- or less safe for travelling or conveying shall be punished with imprisonment of scription for a term which may extend to , or with fine, or with both.

y injury
i bridge,
ınel.

Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended y or damage, shall be punished with im- ıt of either description for a term which nd to five years, or with fine, or with

y causing
r obstruc-
e drainage
h damage

Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for s, or by any act which renders any such se, sea-mark, buoy, or other such thing as , less useful as a guide for navigators, shall ıed with imprisonment of either description n which may extend to seven years, or with vith both.

y destroy-
, or render-
ful, a light-
-mark

434. Whoever commits mischief by destr[illegible] or moving any land-mark [illegible] by the authority of a [illegible] servant, or by any act w[illegible] renders such land-mark les[illegible]ful as such, shall be punished with imprisonment either description for a term which may extend one year, or with fine, or with both.

Mischief by destroying or moving, &c., a land-mark fixed by public authority.

435. Whoever commits mischief by fire or explosive substance, intend[illegible] to cause, or knowing it to likely that he will thereby ca[illegible] damage to any property to amount of one hundred rupees or upwards, or (where the pro[illegible]perty is agricultural produce) ten rupees or [illegible]wards, shall be punished with imprisonment either description for a term which may extend seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees

436. Whoever commits mischief by fire or explosive substance, intend[illegible] to cause, or knowing it to [illegible] likely that he will thereby ca[illegible] the destruction of any build[illegible] which is ordinarily used as a place of worship, as a human dwelling, or as a place for the custody of property, shall be punished with transporta[illegible] for life, or with imprisonment of either descrip[illegible] for a term which may extend to ten years, and [illegible] also be liable to fine.

Mischief by fire or explosive substance with intent to destroy house, &c

437. Whoever commits mischief to any deck[illegible] vessel, or any vessel of a burd[illegible] of twenty tons or upwards, [illegible] tending to destroy or render [illegible] safe, or knowing it to be li[illegible]

Mischief with intent to destroy or make unsafe a decked vessel or one of 20 tons burden.

he will thereby destroy or render unsafe, that
iel, shall be punished with imprisonment of either
cription for a term which may extend to ten years,
shall also be liable to fine.

438. Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with prisonment of either description for a term which y extend to ten years, and shall also be liable to e.

unishment for the hief described in on 437, committed by fire or explosive tance.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such ft or misappropriation of property may be committed, shall be punished with imprisonment of either scription for a term which may extend to ten years, d shall also be liable to fine.

unishment for intionally running el aground or ashore i intent to commit t, &c.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either scription for a term which may extend to five ars, and shall also be liable to fine.

Mischief committed er preparation made causing death or t.

Of Criminal Trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence, or

Criminal trespass.

to intimidate, insult, or annoy any person i[illegible] sion of such property,

or, having lawfully entered into or up[illegible] property, unlawfully remains there with inte[illegible] by to intimidate, insult, or annoy any such or with intent to commit an offence,

is said to commit, "criminal trespass"

442. Whoever commits criminal trespass [illegible] tering into or remaining [illegible] building, tent, or vessel u[illegible] human dwelling, or any building used as a for worship, or as a place for the custody of p[illegible] ty, is said to commit "house-trespass."

House-trespass.

Explanation.—The introduction of any p[illegible] the criminal trespasser's body is entering suf[illegible] to constitute house-trespass.

443 Whoever commits house-trespass, ha[illegible] aken precautions to conceal [illegible] house-trespass from some p[illegible] who has a right to exclude or eject the tres[illegible] from the building, tent, or vessel which is the s[illegible] of the trespass, is said to commit "lurking h[illegible] trespass."

Lurking house-trespass.

444. Whoever commits lurking house-tresp[illegible] after sunset and before s[illegible] is said to commit "lurk[illegible] house-trespass by night."

Lurking house-trespass by night

445. A person is said to commit "house-break[illegible] ing," who commits house-tr[illegible] pass, if he effects his entr[illegible] into the house or any part of it in any of the s[illegible] ways hereinafter described; or if, being in the h[illegible] or any part of it for the purpose of committing [illegible] offence, or, having committed an offence there[illegible]

House-breaking.

ıe house or any part of it in any of such six hat is to say :—

st.—If he enters or quits through a passage ɔy himself, or by any abettor of the house-s, in order to the committing of the house-ıs.

ondly.—If he enters or quits through any ː not intended by any person other than him-r an abettor of the offence, for human en-; or through any passage to which he has ːd access by scaling or climbing over any wall lding.

irdly.—If he enters or quits through any pass-ıich he or any abettor of the house-trespass ened, in order to the committing of the house-ss, by any means by which that passage was tended by the occupier of the house to be l.

urthly.—If he enters or quits by opening any ı order to the committing of the house-trespass, ırder to the quitting of the house after a house-ss

fthly.—If he effects his entrance or departure ing criminal force or committing an assault, or reatening any person with assault

xthly.—If he enters or quits by any passage ı he knows to have been fastened against such nce or departure, and to have been unfastened mself or by an abettor of the house-trespass.

xplanation.—Any out-house or building occu-with a house, and between which and such house is an immediate internal communication, is of the house within the meaning of this section.

Illustrations.

hole t
the d throu
ape

(*b*) A commits house-trespass by creeping into a s
port-hole between decks This is house-breaking

(*c*) A commits house-trespass by entering Z's
through a window. This is house-breaking

(*d*) A commits house-trespass by entering Z's
through the door, having opened a door which was fas
This is house-breaking

(*e*) A commits house-trespass by entering Z's
through the door, having lifted a latch by putting a
through a hole in the door. This is house-breaking

(*f*) A finds the key of Z's house-door which Z had
and commits house-trespass by entering Z's house, ha
opened the door with that key. This is house-break

(*g*) Z is standing in his door-way. A forces a pas
by knocking Z down, and commits house-trespass by e
ing the house This is house-breaking

(*h*) Z, the door-keeper of Y, is standing in Y's door
A commits house-trespass by entering the house ha
deterred Z from opposing him by threatening to beat
This is house-breaking

House-breaking by night

446. Whoever commits house-breaking a
sunset and before sunrise is
to commit "house-breaking
night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass
be punished with imprisonm
of either description for a t
which may extend to three months, or with fine w
may extend to five hundred rupees, or with both

Punishment for house-trespass

448. Whoever commits house-trespass sh
punished with imprisonment
either description for a t

may extend to one year, or with fine which :end to one thousand rupees, or with both.

'. Whoever commits house-trespass in order to the commiting of any offence punishable with death shall be punished with transportation for with rigorous imprisonment for a term not ng ten years, and shall also be liable to fine.

respass in or- mmit offence e with death.

'. Whoever commits house-trespass in order to the commiting of any offence punishable with transportation for life shall be punished with imprisonment of either descrip- r a term not exceeding ten years, and shall liable to fine.

respass in or- mmit offence e with trans. for life.

. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a rhich may extend to two years, and shall also le to fine; and if the offence intended to be tted is theft, the term of the imprisonment o extended to seven years.

trespass in or- nmit offence le with impri-

2. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any per- r for putting any person in fear of hurt, or of t, or of wrongful restraint, shall be punished imprisonment of either description for a term. may extend to seven years, and shall also be to fine.

:-trespass after :ion for hurt, or wrongful t

453. Whoever commits lurking house-tr... or house-breaking shall b... nished with imprisonment ... either description for a te... which may extend to two years, and shall also ... liable to fine.

Punishment for lurking house trespass or house-breaking

454. Whoever commits lurking house-tres... or house-breaking in ord... the committing of any off... punishable with impris... shall be punished with impri... ment of either descripti... term which may extend to three years and shall... be liable to fine; and if the offence int... d... committed is theft, the term of the imprison... may be extended to ten years.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

455. Whoever commits lurking house-tres... or house-breaking, having m... preparation for causing hur... any person, or for assaulting... person, or for wrongfully r... training any person, or for p... ting any person in fear of hurt, or of assault, o... wrongful restraint, shall be punished with impri... ment of either description for a term which ... extend to ten years, and shall also be liab... fine.

Lurking house trespass or house-breaking after preparation for hurt, assault, or wrongful restraint

456. Whoever commits lurking house-tres... by night, or house-breakin... night, shall be punished ... imprisonment of either des... tion for a term which may ... tend to three years, and shall also be liab... fine

Punishment for lurking house trespass or house-breaking by night.

457. Whoever commits lurking house-trespass by night or house-breaking by night in order to commit any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night having made preparation for causing hurt to any person or for assaulting any person, or, for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460 If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person joint-

All persons jointly concerned in lurking house-trespass or house breaking by night punishable where death or grievous hurt caused by one of them

ly concerned in committing such lurking house ' pass by night or house-breaking by night shall punished with transportation for life, or with imp sonment of either description for a term which . extend to ten years, and shall also be liable to fine

Dishonestly breaking open receptacle containing property.

461. Whoever dishonestly, or with intent commit mischief, breaks open unfastens any closed receptac which contains, or which he l lieves to contain, property, shall be punished wi imprisonment of either description for a term whi may extend to two years, or with fine, or with both

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any clos receptacle which contains, (which he believes to conta property, without having author ty to open the same, dishonestly or with intent to commit mischief, breaks open o unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or wi both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

Forgery

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud, or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by, or by the authority of, a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, *or at a time at which he knows that it* was not made, signed, sealed, or executed ; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration ; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, *knowing that such person, by reason of unsoundness* of mind or intoxication, cannot, or that, by reason of deception practised upon him, he does not, know the contents of the document or the nature of the alteration.

Illustrations

(*a*) A has a letter of credit upon B for Rs. 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(*b*) A, without Z's authority, affixes Z's seal to a document [illegible]

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery

(d) A leaves with B, his agent, a cheque on a bank signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees B commits forgery

(e) A draws a bill of exchange on himself in the nam[illegible] ...count it as ... take up th... with inten... pose that b... t the bill, ... is guilty of forgery.

(f) Z's will contains these words: "I direct that all my remaining property be equally divided between A, B, and C" A dishonestly scratches out B's name intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note, and makes it payable to Z or his order, by writing on the bill the words "Pay to Z or his order," and signing the endorsement B dishonestly erases the words, "Pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will A has committed forgery

) A writes a letter, and signs it with B's name without

ther persons. Here, as A made a false document in to induce Z to part with property, A has committed ry.

) A, without B's authority, writes a letter, and signs B's name, certifying to A's character, intending thereby tain employment under Z A has committed forgery, uch as he intended to deceive Z by the forged icate, and thereby to induce Z to enter into an exed or implied contract for service.

Explanation 1.—A man's signature of his own e may amount to forgery.

Illustrations.

) A signs his own name to a bill of exchange, intendhat it may be believed that the bill was drawn by an- person of the same name. A has committed forgery.

) A writes the word "accepted" on a piece

y of forgery

) A picks up a bill of exchange payable to the order different person of the same name A endorses the in his own name, intending to cause it to be believed it was endorsed by the person to whose order it was able. Here A has committed forgery.

(d) A purchases an estate sold

the seizure with intent to defraud

be belie

ure B,

mits forg

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and, in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his life-time, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of record of Court or of public register, &c.

466 Whoever forges a document purporting to be a record or proceeding of or in a Court of Justice, or a [illegible] n, marriage or burial [illegible] servant as such, or [illegible] orting to be made by a public servant in his official capacity, or [illegible] ent, or to take [illegible] judgment [illegible] with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to give authority to valuable security, rest, or dividends ion, or to receive or deliver any money, move- rity, or any document e or receipt acknow- or an acquittance or moveable property or able security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, shall also be liable to fine.

gery of valuable ty, will, &c

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven rs, and shall also be liable to fine.

gery for the purpose of cheating.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be d for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to e.

rgery for the purpose of harming reputation.

470. A false document made wholly or in part by forgery is designated "a forged document."

A forged document."

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to

sing as genuine a ed document.

lieve to be a forged document shall be punished in the same manner as if he had forged such document.

Making or possessing counterfeit seal, &c, with intent to commit a forgery punishable under section 467.

472. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, &c., with intent to commit forgery punishable otherwise.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of document described in section 466 or 467, knowing it to be forged, and intending to use it as genuine.

474. Whoever has in his possession any document knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in

ion 466 of this Code, be punished with imprison-
nt of either description for a term which may ex-
d to seven years, and shall also be liable to fine;
l, if the document is one of the description men-
ied in section 467, shall be punished with trans-
tation for life, or with imprisonment of either
cription for a term which may extend to seven
rs, and shall also be liable to fine.

Counterfeiting a de- or mark used for enticating docu- its described in ion 467, or possess- counterfeit-marked erial

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of ving the appearance of authenticity to any docu- nt then forged or thereafter to be forged on such aterial, or who, with such intent, has in his posses- on any material upon or in the substance of which y such device or mark has been counterfeited, all be punished with transportation for life, or ith imprisonment of either description for a term hich may extend to seven years, and shall also be able to fine

Counterfeiting a de- ice or mark used for athenticating docu- ents other than those escribed in section 67, or possessing coun- erfeit-marked mate- ial.

476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged n such material upon, or in the substance of, which

any such device or mark has been counterfeited shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of will, authority to adopt, or valuable security.

477. Whoever fraudulently or dishonestly, with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is, or purports to be, a will or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Falsification of accounts

477A. Whoever, being a clerk, officer, or servant, or employed or acting in the capacity of a clerk, officer, or servant, wilfully, and with intent to defraud, destroys, alters, mutilates, or falsifies any book, paper, writing, valuable security, or account which belongs to, or is in the possession of, his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters, or abets the omission or alteration of, any material particular from or in any such book, paper, writing, valuable security, or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to de-

without naming any particular person in-
. to be defrauded, or specifying any particu-
n of money intended to be the subject of the
or any particular day on which the offence
)mmitted.

Of Trade, Property, and Other Marks.

'8. A mark used for denoting that goods are
-mark. the manufacture or merchandise of a particular person is called a mark, and, for the purposes of this Code, the
sion "trade-mark" includes any trade-mark
is registered in the register of trade-marks
ınder the Patents, Designs, and Trade-marks
.883, and any trade-mark which, either with
thout registration, is protected by law in any
h possession or foreign State to which the pro-
ıs of the one hundred and third section of the
ıts, Designs, and Trade-marks Act, 1883, are,
: order in Council, for the time being appli-

·79. A mark used for denoting that moveable
ɔerty-mark. property belongs to a particular person is called a property-mark.

ł80. Whoever marks any goods, or any case, pack-
ng a false trade- age, or other receptacle containing goods, or uses any case,
ɪage, or other receptacle with any mark thereon,
manner reasonably calculated to cause it to be
eved that the goods so marked, or any goods
:ained in any such receptacle so marked, are the
ıufacture or merchandise of a person whose ma-
ıcture or merchandise they are not, is said to use
:se trade-mark.

Using a false property mark.

481. Whoever marks any moveable property goods, or any case, package, other receptacle containing mov able property or goods, or uses any case, packag or other receptacle having any mark thereon, in manner reasonably calculated to cause it to be be lieved that the property or goods so marked, or an property or goods contained in any such receptacl so marked, belong to a person to whom they do n belong, is said to use a false property-mark.

Punishment for using a false trade mark or property-mark

482 Whoever uses any false trade-mark or an false property-mark shall, unles he proves that he acted withou intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Counterfeiting a trade-mark or property-mark used by another

483. Whoever counterfeits any trade-mark or property-mark used by any other person shall be punished with imprisonment of either descrip tion for a term which may extend to two years, or with fine, or with both.

Counterfeiting a mark used by a public servant

484 Whoever counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person, or at a par ticular time or place, or that the property is of a par ticular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

85. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of counterfeiting a trade-mark or property-mark, or has in his possession a trade-mark or property-mark for the

ing or possession
r instrument for
rfeiting a trade-
or property-

...ods are the manufac-
...n whose manufacture
... that they belong to
rson to whom they do not belong, shall be pu-
ed with imprisonment of either description for a
1 which may extend to three years, or with fine, or
1 both.

486. Whoever sells or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade-mark or property-mark

ling goods mark-
with a counterfeit
-mark or proper-
ark

xed to, or impressed upon, the same, or to or
n any case, package, or other receptacle in which
h goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark, and

(b) that, on demand made by, or on behalf of, the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

s punished with imprisonment of either description
r a term which may extend to one year, or with
ne, or with both.

487. Whoever makes any false mark upon any case, package, or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making a false mark upon any respectacle containing goods.

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Punishment for making use of any such false mark

489. Whoever removes, destroys, defaces, or adds to any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Tampering with property-mark with intent to cause injury

'Of Currency-notes and Bank-notes.'

489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, with imprison-

Counterfeiting currency-notes or bank-notes

t of either description for a term which may ex- . to ten years, and shall also be liable to fine.

Explanation.—For the purposes of this section of sections 489B, 489C, and 489D, the expres- "bank-note" means a promissory note or en- ement for the payment of money to bearer on and issued by any person carrying on the busi- of banking in any part of the world, or issued or under the authority of any State or Sovereign ver, and intended to be used as equivalent to, or substitute for, money.

ing as genuine d or counterfeit ncy-notes or -notes.

489B Whoever sells to, or buys or receives from, any other person, or otherwise traffics in, or uses as genuine, any forged or counterfeit currency-note or bank-note know- or having reason to believe the same to be forg- or counterfeit, shall be punished with transport- on for life, or with imprisonment of either de- ption for a term which may extend to ten years, shall also be liable to fine.

ossession of forged unterfeit currency- s, or bank-notes

'489C. Whoever has in his possession any forg- ed or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be ged or counterfeit, and intending to use the same genuine, or that it may be used as genuine, shall punished with imprisonment of either description a term which may extend to seven years, or with e, or with both.

Making or possess- instrument, or ma- als for forging or nterfeiting curren- notes or banknotes.

'489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any ma- chinery, instrument, or material

for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

Breach of contract of service during a voyage or journey

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Illustrations.

[illegible] legal contract [illegible] and [illegible] in this section

(b) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, runs away in the middle of the stage. A has committed the offence defined in this section

(c) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so A has committed the offence defined in this section

(d) A, by unlawful means, compels B, a cooly, to carry his baggage B, in the course of the journey, puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly by the person who is to perform the service.

Illustration.

A contracts with a dak company to drive his carriage for a month B employs the dak company to convey him on a journey, and during the month the company supplies B with a carriage which is driven by A A, in the course of the journey, voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this section

Breach of contract to attend on and supply wants of helpless person

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth or of unsoundness of mind, or a disease or bodily weakness, is helpless or incapable of providing for his own safety, or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Breach of contract to serve at distant place to which servant is conveyed at master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or labourer, for a period not more than three years, at any place within British India, to

which, by virtue of the contract, he has been, or is be, conveyed at the expense of such other, voluntar deserts the service of that other during the co tinuance of his contract, or without reasonable cau refuses to perform the service which he has co tracted to perform, such service being reasona and proper service, shall be punished with impri menr of either description for a term not exceedi one month, or with fine not exceeding double t amount of such expense, or with both, unless t employer has ill-treated him, or neglected to perfo the contract on his part.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

493. Every man who by deceit causes any w man who is not lawfully marri to him to believe that she is la fully married to him, and cohabit or have sexual inte course with him in that belief, shall be punished wi imprisonment of either description for a term wh c may extend to ten years, and shall also be liable t fine.

Marrying again during life time of husband or wife.

494. Whoever, having a husband or wife living marries in any case in whic such marriage is void by reaso of its taking place during th life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife

as been declared void by a Court of competent juris-iction, nor to any person who contracts a marriage uring the life of a former husband or wife, if such usband or wife, at the time of the subsequent mar-age, shall have been continually absent from such erson for the space of seven years, and shall not ave been heard of by such person as being alive ithin that time, provided the person contracting ich subsequent marriage shall, before such marriage ikes place, inform the person with whom such mar-iage is contracted of the real state of facts, so far s the same are within his or her knowledge.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

495. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

496. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery

497. Whoever has sexual intercourse with a person who is, and whom he knows or has reason to believe to be, the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of

the offence of adultery, and shall be punished wi imprisonment of either description for a term whi may extend to five years, or with fine, or with bot In such case the wife shall not be punishable as a abettor.

Enticing or taking away or detaining with a criminal intent a married woman.

498. Whoever takes or entices away any wo man, who is and whom he know or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

Of Defamation.

Defamation

499 Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concering any person, intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation ake an imputation concerning a company or an iation or collection of persons as such.

Explanation 3.—An imputation in the form of lternative, or expressed ironically, may amount famation.

Explanation 4.—No imputation is said to harm rson's reputation unless that imputation, directly ndirectly, in the estimation of others lowers the al or intellectual character of that person, or rs the character of that person in respect of his e or of his calling, or lowers the credit of that on, or causes it to be believed that the body of person is in a loathsome state, or in a state erally considered as disgraceful.

Illustrations.

(*a*) A says, "Z is an honest man; he never stole B's h;" intending to cause it to be believed that Z did steal watch This is defamation, unless it fall within one of exceptions

(*b*) A is asked, who stole B's watch? A points to Z in-ling to cause it to be believed that Z stole B's watch s is defamation, unless it fall within one of the excep-s

(*c*) A draws a picture of Z running away with B's watch, nding it to be believed that Z stole B's watch This is amation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. hether or not it is for the public good, is a question of fact.

mputation of truth ich public good requires to be made or blished

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no farther.

Public conduct of public servants

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

Conduct of any person touching any public question

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication of reports of proceedings of Courts

Explanation.—A Justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice is a Court within the meaning of the above section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Jus-

Merits of case decided in Court, or conduct of witnesses and others concerned.

ce, or respecting the conduct of any person as a arty, witness, or agent, in any such case, or respecting the character of such person, as far as his naracter appears in that conduct, and no farther.

Illustrations.

(a) A says, "I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is thin this exception if he says this in good faith, inasmuch the opinion which he expresses respects Z's character it appears in Z's conduct as a witness, and no farther.

(b) But, if A says, "I do not believe what Z asserted that trial, because I know him to be a man without veraty," A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not unded on Z's conduct as a witness

Merits of public performance

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of e author, as far as his character appears in such erformance, and no farther.

Explanation.—A performance may be submitted the judgment of the public expressly or by acts 1 the part of the author which imply such submission to the judgment of the public.

Illustrations.

(a) A person who publishes a book submits that book the judgment of the public.

(b) A person who makes a speech in public submits that eech to the judgment of the public.

(c) An actor or singer who appears on a public stage bmits his acting or singing to the judgment of the iblic.

(*d*) A says of a book published by Z, "Z's book is foolish, Z must be a weak man; Z's book is indecent, Z must be a man of impure mind" A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e*) But, if A says, "I am not surprised that Z's book is foolish and indecent, for he is a weak man, and a libertine," A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by person having lawful authority over another

Illustration.

A Judge censuring in good faith the conduct of a witness ... department cens... other... children; a schoolmaster, whose authority is ... the presence ...

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Accusation preferred in good faith to authorized person.

Illustration.

A in good faith accuses Z before a Magistrate; if A in ... rvant, to Z's ... iduct of Z, a ...

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or the public good.

atation made in faith by person tection of his or interests.

Illustrations.

) A shop-keeper, says to B, who manages his business, nothing to Z unless he pays you ready money, for I no opinion of his honesty." A is within the exception, has made this imputation on Z in good faith for the ction of his own interests

) A, a Magistrate, in making a report to his superior r, casts an imputation on the character of Z. Here, if imputation is made in good faith and for the public , A is within the exception

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to om it is conveyed, or of some person in whom t person is interested, or for the public good.

ation intended good of person to m conveyed or for ic good

500. Whoever defames another, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

unishment for de-ation.

true, and makes, publishes, or circulates it without any such intent as aforesaid.

Punishment for criminal intimidation

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt &c

and if the threat be to cause death or griev hurt, or to cause the destruct of any property by fire, or cause an offence punishable w death or transportation, or with imprisonment fo term which may extend to seven years, or to imp unchastity to a woman, shall be punished with imp sonment of either description for a term which m extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication

507. Whoever commits the offence of crimin intimidation by an anonymo communication, or having tak precaution to conceal the nam or abode of the person from whom the threat come shall be punished with imprisonment of either d scription for a term which may extend to two year in addition to the punishment provided for the of fence by the last preceding section.

Act caused by inducing person to believe that he will be rendered an object of divine displeasure

508 Whoever voluntari causes or attempts to cause an person to do anything which tha person is not legally bound to do or omit to do anything which he is legally entitled to do;

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act

offender an object of divine displeasure if he not do the thing which it is the object of the ler to cause him to do, or if he does the thing it is the object of the offender to cause him to

all be punished with imprisonment of either iption for a term which may extend to one year, th fine, or with both.

Illustrations.

A sits dharna at Z's door with the intention of causto be believed that by so sitting he renders Z an object ne displeasure. A has committed the offence defined, e section.

A threatens Z that, unless Z performs a certain act, l kill one of A's own children under such circumstanat the killing would be believed to render Z an object ne displeasure. A has committed the offence defined is section.

509. Whoever, intending to insult the modesty

rd, gesture, or act ded to insult the ty of a woman

of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending such word or sound shall be heard, or that such ure or object shall be seen, by such woman, or udes upon the privacy of such woman, shall be ished with simple imprisonment for a term which extend to one year, or with fine, or with both.

510. Whoever, in a state of intoxication, appears

isconduct in pubby a drunken per-

in any public place, or in any place which it is a trespass in him to enter, and there conducts self in such a manner as to cause annoyance to person, shall be punished with simple imprisonnt for a term which may extend to twenty-four

true, and makes, publishes, or circulates it without any such intent as aforesaid.

Punishment for criminal intimidation

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt &c

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Act caused by inducing person to believe that he will be rendered an object of divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do or omit to do anything which he is legally entitled to do;

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act

offender an object of divine displeasure if he
not do the thing which it is the object of the
er to cause him to do, or if he does the thing
it is the object of the offender to cause him to

all be punished with imprisonment of either
ption for a term which may extend to one year,
h fine, or with both.

Illustrations.

A sits dharna at Z's door with the intention of caus-
to be believed that by so sitting he renders Z an object
ne displeasure A has committed the offence defined,
section.

A threatens Z that, unless Z performs a certain act,
kill one of A's own children under such circumstan-
at the killing would be believed to render Z an object
ne displeasure. A has committed the offence defined
section.

09. Whoever, intending to insult the modesty
d, gesture, or act led to insult the ty of a woman — of any woman, utters any word,
makes any sound or gesture, or
exhibits any object, intending
such word or sound shall be heard, or that such
re or object shall be seen, by such woman, or
des upon the privacy of such woman, shall be
shed with simple imprisonment for a term which
extend to one year, or with fine, or with both.

510. Whoever, in a state of intoxication, appears
sconduct in pub- y a drunken per- — in any public place, or in any
place which it is a trespass in
him to enter, and there conducts
self in such a manner as to cause annoyance to
person, shall be punished with simple imprison-
t for a term which may extend to twenty-four

hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

Punishment for attempting to commit offences punishable with transportation or imprisonment

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(a) A makes an attempt to steal some jewels by breaking open a box, and finds, after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

[illegible] by thrust-
[illegible] mpt in
[illegible] s guilty

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THE

CRIMINAL PROCEDURE CODE, ACT V. OF 1898.

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THE

CODE OF CRIMINAL PROCEDURE, 1898:

BEING

ACT NO. V. OF 1899.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND MARCH, 1898.

An Act to consolidate and amend the Law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows :—

PART I.—PRELIMINARY.

CHAPTER I.

Short title Commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the rst day of July, 1898

Extent

(*2*) It extends to the whole of British India, but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the

so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

References to Code of Criminal Procedure and other repealed enactments

3. (*1*) In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV. of 1861 or Act X of 1872, or Act X. of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

[E]xpression in for[mer] Acts

(*2*) In every enactment passed before this Code comes into force, the expressions "Officer exercising (or 'having') the powers (or 'the full powers') [of] a Magistrate", "Subordinate Magistrate, first [cl]ass", and "Subordinate Magistrate, second class", [sh]all respectively be deemed to mean "Magistrate [of] the first class", "Magistrate of the second class" [an]d "Magistrate of the third class", the expression [illegible]" shall be deem-[illegible]", the expres-[illegible]ll be deemed [illegible]e expression [illegible]emed to mean [illegible] Presidency Magistrate", and the expression Joint [S]essions Judge" shall mean "Additional Sessions [J]udge."

Definitions.

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different [i]ntention appears from the subject or context:—

(*a*) "Advocate-General" includes also a Government Advocate, or, where there

known or unknown, has committed an offence, but it does not include the report of a police-officer :

(i) "European British subject" means—

(i) any subject of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;

(ii) any child or grandchild of any such person by legitimate descent :

(j) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Chief Court of Lower Burma : in other cases "High Court" means the highest Court of criminal appeal or revision for any local area ; or, where no such Court is established under any law for the time being in in force, such officer as the Governor-General in Council may appoint in this behalf :

(k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court :

der authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding :

(s) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf :

(t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction ;

(u) "sub-division" means a sub-division of a district :

(v) "summons case" means a case relating to an offence, and not being a warrant case ; and

(w) "warrant case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to acts.

(2) Words which refer to acts done extend also to illegal omissions ; and

III.—Magistrates of the first class :

IV.—Magsitrates of the second class :

V.—Magistrates of the third class.

B —Territorial Divisions.

Sessions divisions and districts

7. (*1*) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Power to alter divisions and districts

(*2*) The Local Government may alter the limits, or, with the previous sanction of the Governor-General in Council, the number, of such divisions and districts.

Existing divisions and districts maintained till altered.

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

Power to divide districts into sub-divisions

8. (*1*) The Local Government may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.

Existing sub divisions maintained

(*2*) All existing sub-divisons which are now usually put under the charge of a Magistrate shall be deemed *to* have been made under this Code.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, [su]ch officer shall, pending the orders of the Local [Go]vernment, exercise all the powers and perform all [th]e duties respectively conferred and imposed by this [Co]de on the District Magistrate.

Officers temporarily succeeding to vacancies in office of District Magistrate.

12. (1) The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to [be] Magistrates of the first, second or third class in [an]y district outside the presidency-towns; and the [L]ocal Government or the District Magistrate subject to the control of the Local Government, may, from time to [ti]me, define local areas within which such persons [m]ay exercise all or any of the powers with which [th]ey may respectively be invested under this Code.

Subordinate Magistrates.

Local limits of their jurisdiction

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

13. (1) The Local Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

Power to put Magistrate in charge of sub-division.

(2) Such Magistrates shall be called Sub-divisional Magistrates.

(3) The Local Government may delegate its powers under this section to the District Magistrate.

Delegation of powers to District Magistrate.

Special Magistrates

14. (*1*) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases, or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(*3*) With the previous sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control, the power conferred by sub-section (*1*).

(*4*) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

Benches of Magistrates.

15. (*1*) The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes

of cases only, and within such local limits, as the Local Government thinks fit.

Powers exercisable by Bench in absence of special direction.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(a) the classes of cases to be tried ;

(b) the times and places of sitting ;

(c) the constitution of the Bench for conducting trials ;

(d) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate,

17. (1) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

Benches.

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

Local limits of jurisdiction

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Chief Presidency Magistrate

21. (1) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(b) the times and places at which Benches of Magistrates shall sit;

(c) the constitution of such Benches;

(d) the mode of settling differences of opinion which may arise between Magistrates in session and;

(e) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrate subordinate to him.

(2) The Local Government may, for the purposes of this Code, declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

Justices of the Peace for the Mufassal.

22. The Governor-General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Justices of the Peace for the Presidency-towns

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

24. (1) Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor-General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

Present Justices of the Peace.

(2) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of the respective offices, the Governor-General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor-General, and the Judges of the High Court, are Justices of the Peace within and for the whole of British India, Sessions Judge and District Magistrate are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrate are Justices of the Peace within and for the towns of which they are respectively Magistrates.

Ex-officio Justices of the Peace.

F.—Suspension and Removal.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates may be suspended or removed from office by the Local Government:

Suspension and removal of Judges and Magistrates.

Provided that such Judges and Magistrates as now are liable to be suspended or removed from

under this Code by which such offence is shewn in the eighth column of the second schedule to be triable.

Offences not punishable with death.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and Sessions Judges may pass.

31. (*1*) A High Court may pass any sentence authorized by law.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(*3*) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

Sentence which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences, namely:—

(a) Courts of Presidency Magistrates and of Magistrates of the first class:	Imprisonment for a t[erm] not exceeding two years, [in]cluding such solitary confi[ne]ment as is authorized by la[w]; Fine not exceeding o[ne] thousand rupees; Whipping.
(b) Courts of Magistrates of the second class:	Imprisonment for a ter[m] not exceeding six months, including such solitary confinement as is authorized by law; Fine not exceeding two hundred rupees; Whipping (if specially empowered).
(c) Courts of Magistrates of the third class.	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

(3) No Court of any Magistrate of the second class shall pass a sentence of whipping unless it is specially empowered in this behalf by the Local Government.

33. (1) The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default:

Power of Magistrates to sentence to imprisonment in default of fine

Provided that—

(a) the term is not in excess of the Magistrate's powers under this Code;

(b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to certain cases.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District Magistrates.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

Sentence in cases of conviction of several offences at one trial.

35. (1) When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Additional powers conferrable on Magistrates.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

Control of District Magistrate's investing power.

D.—*Conferment, Continuance and Cancellation of Powers.*

39. (*1*) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Mode of conferring powers

(*2*) Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

Continuance of powers of officers transferred.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie [illegible] give informati[illegible] officer of such

Public to give information of certain offences.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

45. (*1*) Every village-headman, village-accountant, village watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

Village-headmen accountants, land-holders, and others bound to report certain matters

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.

Appointment of village headmen by District Magistrate in certain cases for purposes of this section

(3) Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

CHAPTER V.—OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

Arrest how made

46. (*1*) In making an arrest, the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest, or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person and place in safe custody all articles, other than necessary wearing apparel, found upon him.

Mode of searching women

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

fifthly—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy, or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service.

seventhly—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists, of his having been concerned in, any act committed [illegible]

. .

and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and

eighthly—any released convict committing a breach of any rule made under section 565, sub-section (3).

(2) This section applies also to the police in the town of Calcutta.

Arrest of vagabonds, habitual robbers, &c.

55. (1) Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested—

57. (1) When any person who, in the presence of a police-officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

Refusal to give name and residence

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this chapter, pursue such person into any place in British India.

Pursuit of offenders into other jurisdictions

59. (1) Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender ;

Arrest by private persons.

and shall, without unnecessary delay, make over any person so arrested to a police officer, or, in the absence of

Procedure on such arrest

d without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence.

64. When any offence is committed in the pre-

person to arre

subject to the

commit the offender to custody.

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49, shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant, and is not a police-officer having authority to arrest.

Service when person summoned cannot be found

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company

72. (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

Service of summons outside local limits

73 When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of

whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70 by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond

with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and

(c) the time at which he is to attend before the Court.

Recognizance to be forwarded

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same

Warrant to several persons.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, &c.

78 (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped

convict, proclaimed offender or person who has b accused of a nonbailable offence, and who has elu pursuit

(2) Such landholder, farmer or manager shall knowledge in writing the receipt of the warrant, shall execute it if the person for whose arrest it issued, is in, or enters on, his land or farm, or land under his charge.

(3) When the person against whom such wa rant is issued, is arrested, he shall be made o with the warrant to the nearest police-offi er, shall cause him to be taken before a Magistr having jurisdiction in the case, unless security taken under section 76.

Warrant directed to police-officer

79. A warrant directed to any police-offic may also be executed by a other police-officer whose na is endorsed upon the warrant by the officer to who it is directed or endorsed

Notification of substance of warrant

80. The police-officer or other person executi a warrant of arrest shall noti the substance thereof to the pe son to be arrested, and, if so required, shall sho him the warrant.

Person arrested to be brought before Court without delay

81. The police-officer or other person executi a warrant of arrest shall (su ject to the provisions of sectio 76 as to security), without u necessary delay bring the person arrested befor the Court before which he is required by law t produce such person.

Where warrant may be executed.

82. A warrant of arrest ma be executed at any place in Br tish India.

83. (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a Presidency-town within the local limits of whose jurisdiction it is to be executed.

Warrant forwarded for execution outside jurisdiction.

(2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84. (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Warrant directed to police-officer for execution outside jurisdiction

(2) Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local

or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment

Proclamation for person absconding.

87. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is [illegible] rrant cannot b [illegible] written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this sec-

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the ›urt may, if it thinks it expedient, order immedie sale thereof, and in such case the proceeds of the le shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver ›pointed under this section shall be the same as ›ose of a receiver appointed under Chapter XXXVI. the Code of Civil Procedure.

(7) If the proclaimed person does not appear ithin the time specified in the proclamation, the roperty under attachment shall be at the disposal f Government; but it shall not be sold until the xpiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, r the Court considers that the sale would be for the enefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property

89. If, within two years from the date of the attachment, any person whose property is or has been at the isposal of Government under sub-section (7) of secion 88, appears voluntarily or is apprehended and [illegible] ...hose order the proper- ...which such Court is ...satisfaction of such Court that he did not abscond or conceal himself for he purpose of avoiding execution of the warrant,

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Arrest on breach of bond for appearance

93. The provisions contained in this chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

Provisions of this chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII.—OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—*Summons to Produce.*

94. (*1*) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Summons to produce document or other thing

(*2*) Any person required under this section merely to produce a document or other thing shall be

t produce the document or thing as required by ch summons or requisition,

or where such document or thing is not known the Court to be in the possession of any person,

or where the Court considers that the purposes any inquiry, trial or other proceeding under this ode will be served by a general search or inspecon,

it may issue a search-warrant : and the person to hom such warrant is directed, may search or insect in accordance therewith and the provisions ereinafter contained.

(2) Nothing herein contained shall authorize any [a]gistrate other than a District Magistrate or Chief residency Magistrate to grant a warrant to search r a document, parcel or other thing in the custody f the Postal or Telegraph Authorities.

Power to restrict arrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only he search or inspection shall extend ; and the person harged with the execution of such warrant shall hen search or inspect only the place or part so pecified.

Search of house susected to contain stoen property, forged ocuments, &c.

98. (1) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or

said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(2) The provisions of this section with respect —

(a) counterfeit coin,

(b) coin suspected to be counterfeit, and

(c) instruments or materials for counterfeiting coin, shall, so far as they can be made applicable, apply respectively to—

(a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

(b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(c) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same,

all on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all easonable facilities for a search therein.

(2) If ingress into such place cannot be so obained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his peron any article for which search should be made, uch person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses

103. (1) Before making a search under this chapter, the officer or other person about to make it, shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found, shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it

Occupant of place searched may attend.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witness-

es, shall be delivered to such occupant or persot his request.

(4) When any person is searched under sect 102, sub-section (3), a list of all things taken poss sion of shall be prepared, and a copy thereof sh be delivered to such person at his request.

E.—Miscellaneous.

Power to impound document, &c produced.

104. Any Court may, if thinks fit, impound any doc ment or thing produced befo it under this Code.

Magistrate may direct search in his presence

105. Any Magistrate may direct a search to made in his presence of any plac for the search of which he competent to issue a searcl warrant.

PART IV.—PREVENTION OF OFFENCES

CHAPTER VIII.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction.

106. (1) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men, or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Sessions or the Court of a Presidency Magistrate, a District Magis-

-ate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other cases and Security for Good Behaviour.

Security for keeping the peace in other cases.

107. (1) Whenever a Presidency Magistrate, [illegible]

person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless the person informed against, or the place where the breach of the peace or disturbance

is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

Procedure of Magistrate not empowered to act under *sub-section (1)*

(3) When any Magistrate not empowered to proceed under *sub-section (1)* has reason to believe that any person *is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity*, and that such breach of the peace or disturbance cannot be prevented otherwise than [illegible] such Magistrate [illegible] a warrant for [illegible] stody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate, before whom a person is sent under this section, *may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.*

Security for good behaviour from persons disseminating seditious matter

108. Whenever a Chief *Presidency or District Magistrate, or a Presidency Magistrate* or Magistrate of the first class *especially empowered by the Local Government in this* behalf, has *information* that there is within the limits of his jurisdiction any person who within or without such limits, either *orally* or in writing, disseminates

r attempts to disseminate, or in anywise abets the issemination of,—

(a) any seditions matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, or

(b) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, except by the order or under the authority of the Governor-General in Council or the Local Government or some officer empowered by the Governor-General in Council in this behalf.

Security for good behaviour from vagrants and suspected persons

109 Whenever a Presidency Magistrate, District Magistrate, Sub divisional Magistrate or Magistrate of the first class receives information—

(a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction,

(f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate m y, in manner hereinafter pro-
ided, require such person to show cause why he
[illegible] with sureties,
[illegible] d, not exceed-
[illegible] ks fit to fix.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they nay be dealt with under the European Vagrancy Act, 874.

Proviso as to European vagrants.

112. When a M gistrate acting under section 107, section 108, section 109 or section 110 deems it necessary o require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Order to be made.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Procedure in respect of person present in Court

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Summons or warrant in case of person not so present.

d for conducting trials and recording evidence mmons-cases ; and, where the order requires se- y for good behaviour, in the manner hereinafter cribed for conducting trials and recording evi- e in warrant-cases, except that no charge need ramed.

(3) For the purposes of this section the fact that rson is an habitual offender may be proved by ence of general repute or otherwise.

(4) Where two or more persons have been asso- d together in the matter under inquiry, they be dealt with in the same or separate inquiries he Magistrate shall think just

118. (1) If, upon such inquiry, it is proved that der to give secu- it is necessary, for keeping the peace or maintaining good be- iour, as the case may be, that the person in res- t of whom the inquiry is made should execute a d, with or without sureties, the Magistrate shall ke an order accordingly :

Provided,—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112 :

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive :

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

.23. (*1*) If any person ordered to give security under section 106 or section 118 does not give such security on efore the date on which the period for which such rity is to be given, commences, he shall, except 1e case next hereinafter mentioned, be committed rison, or, if he is already in prison, be detained rison until such period expires, or until within 1 period he gives the security to the Court or gistrate who made the order requiring it.

prisonment in de- of security.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as af- said, issue a warrant directing him to be detained prison pending the orders of the Sessions Judge, if such Magistrate is a Presidency Magistrate, iding the orders of the High Court: and the pro- dings shall be laid, as soon as conveniently may before such Court.

oceedings when laid before High t or Court of Ses-

(*3*) Such [illegible]
1 requiri [illegible]
tion or [illegible]
is such c [illegible]

Provided that the period (if any) for which any son is imprisoned for failure to give security shall t exceed three years.

(*4*) If the security is tendered to the officer in arge of the jail, he shall forthwith refer the matter the Court or Magistrate who made the order, d shall await the orders of such Court or Magis- ate.

Kind of imprisonment

(5) Imprisoment for fail to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security.

124 (1) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

5. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this chapter by order y Court in his district not superior to his Court.

r of District ate to cancel id for keeping ce or good be-

!6 (1) Any surety for the peaceable conduct or

; of his jurisdiction

!) On such application being made, the Magisshall issue his summons or warrant, as he thinks quiring the person for whom such surety is d to appear or to be brought before him.

3) When such person appears or is brought bethe Magistrate, such Magistrate shall cancel the , and shall order such person to give, for the pired portion of the term of such bond, fresh ity of the same description as the original securi- Every such order shall, for the purposes of sec- 121, 122, 123 and 124, be deemed to be an made under section 106 or section 118, as the may be.

CHAPTER IX.

Unlawful Assemblies.

127. (1) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of

embly to dis- on command of strate or police- r

ie Magistrate may direct, or as it may be necessary
 arrest and confine in order to disperse the assembly
r to have them punished according to law.

(2) Every such officer shall obey such requisition
n such manner as he thinks fit; but, in so doing he
hall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such
ersons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it. in order to disperse such assembly or that they may be punished [illegible] but if, while he is acting under [illegible]

thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this chapter.

132. No prosecution against any person for any act purporting to be done under this chapter shall be instituted in any criminal Court except with the sanction of the Governor-General in Council; and—

(a) no Magistrate or police-officer acting under this chapter in good faith,

(b) no officer acting under section 131 in good faith,

living or carrying on business in the neighbourhood passing by, and that in consequence its removal, pair, or support is necessary, or

that any tank, well, or excavation adjacent to any ıch way or public place should be fenced in such a anner as to prevent danger arising to the public,

such Magistrate may make a conditional order quiring the person causing such obstruction or uisance, or carrying on such trade or occupation, or eeping any such goods or merchandise, or owning, ossessing or controlling such building, substance, nk, well or excavation, within a time to be fixed n the order,

to remove such obstruction or nuisance ; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise ; or

to prevent or stop the construction of such building ; or

to remove, repair or support it ; or

to alter the disposal of such substance ; or

to fence such tank, well or excavation, as the case may be ; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A "public place" includes also property belonging to the State, camping grounds

(2) [illegible] that the order [illegible] proceedings [illegible]

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims jury.

138. (1) On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(a) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(c) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure where jury finds Magistrate's order to be reasonable

139. (1) If the jury or a majority of the jurors [illegible] modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(2) In other cases, no further proceedings shall be taken under this chapter.

Procedure on order being made absolute.

140. (1) When an order has been made absolute under section 136, section 137, or section 139, the Magistrate

shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his or[illegible] other movable p[illegible] [illegible]hout the local lin[illegible] If such other [illegible]rder shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

Consequences of disobedience to order.

(3) No suit shall lie in respect of anything done in good faith under this section.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if, from any cause, the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Procedure on failure to appoint jury or omission to return verdict

142. (1) If a Magistrate, making an order under section 133, considers that immediate measures should be

Injunction pending inquiry

aken to prevent imminent danger or injury of a erious kind to the public, he may, whether a jury s to be, or has been, appointed or not, issue such an njunction to the person against whom the order was made as is required to obviate or prevent such langer or injury pending the determination of the natter.

(2) In default of such person forthwith obeying uch injunction, the Magistrate may himself use, or ause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance as defined in the Indian Penal Code or any special or local law.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144 (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the

CHAPTER XII.

Disputes as to Immovable Property.

145. (1) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, is satisfied, from a police-report or other information that a dispute likely

Procedure where dis-ite concerning land, ., is likely to cause each of peace

) cause a breach of the peace exists concerning any ind or water or the boundaries thereof, within the lo-il limits of his jurisdiction, he shall make an order in riting, stating the grounds of his being so satisfied, nd requiring the parties, concerned in such dispute) attend his Court in person or by pleader, within a ime to be fixed by such Magistrate, and to put in writ-en statements of their respective claims as respects he fact of actual possession of the subject of dispute.

(2) For " land or wa rops or oth its of any such property.

(3) A copy of the order shall be served in manner rovided by this Code for the service of a summons pon such person or persons as the Magistrate may lirect, and at least one copy shall be published by eing affixed to some conspicuous place at or near he subject of dispute

(4) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whe-

Inquiry as to posses-ion

of the subject of dispute, he may attach it until npetent Court has determined the rights of the es thereto, or the person entitled to possession :of.

2) When the Magistrate attaches the subject of ite, he may, if he thinks fit, appoint a receiver :of, who, subject to the control of the Magistrate, have all the powers of a receiver appointed un- the Code of Civil Procedure.

:47. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace ts concerning the right of use of any land or er (including any right of way or other easement · the same) within the local limits of his jurisdic- , he may inquire into the matter in manner provi- by section 145, and may, if it appears to him t such right exists, make an order permitting such ig to be done or directing that such thing shall be done, as the case may be, until the person ecting to such thing being done, or claiming that h thing may be done, obtains the decision of ompetent Court adjudging him to be entitled to vent the doing of, or to do, such thing, as the e may be :

putes concerning ents, &c

Provided that no order shall be passed under this tion permitting the doing of anything where the ht to do such thing is exercisible at all times of ı year, unless such right has been exercised within ·ee months next before the institution of the quiry ; or, where the right is exercisible only at rticular seasons or on particular occasions, unless ɔ right has been exercised during the last of such isons or occasions before such institution.

olice-officer to whom he is subordinate, and to any ther officer whose duty it is to prevent or take ognizance of the commission of any such offence.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from Magistrate and without a warrant, the person o designing, if it appears to such officer that the ommission of the offence cannot be otherwise preented.

Arrest to prevent ich offences

152. A police-officer may, of his own authority, interpose to prevent any injury attempted to be committed in his riew to any public property, movable or immovable, or the removal or injury of any public land-mark or buoy or other mark used for navigation.

Prevention of injury o public property

153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

Inspection of weights and measures

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

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156. (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV. relating to the place of inquiry or trial.

Investigation into cognizable cases.

(2) N[illegible] police-officer in any such [illegible] n question on the [illegible] such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

157. (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender

Procedure where cognizable offence suspected.

Provided as follows —

(a) When any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in per-

Where local investigation dispensed with.

son being within the limits of his own or any oining station who, from the information given otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. (1) Any police-officer making an investigation under this chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

Examination of witnesses by police.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. (1) No statement made by any person to a police-officer in the course of an investigation under this chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence:

Statements to police not to be signed or admitted in evidence.

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request

... a copy thereof and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872.

No inducement to be offered

163. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this chapter any statement which he may be disposed to make of his own free will.

Power to record statements and confessions

164. (1) Every Magistrate not being a police-officer may record any statement or confession made to him in the course of an investigation under this chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) No Magistrate shall record any such confession unless, [illegible] ng it, he has reaso. [illegible] rily and when he records any confession, he shall make a memorandum at the foot of such record to the following effect :—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing and was read over to the person making it, and ad-

by him to be correct, and it contains a full
e account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

planation.—It is not necessary that the Magis-
eceiving and recording a confession or state-
hould be a Magistrate having jurisdiction in
e.

i. *(1)* Whenever an officer in charge of a
by police- police-station, or a police-officer
making an investigation, consi-
at the production of any document or thing
ssary to the conduct of an investigation into
fence which he is authorized to investigate,
ere is reason to believe that a person to whom
nons or order under section 94 has been or
be issued will not or would not produce such
ent or thing according to the directions of the
ons or order, or when such document or thing
known to be in the possession of any person,
fficer may search or cause search to be made,
e same, in any place within the limits of the
n of which he is in charge, or to which he is
ed

) Such officer shall, if practicable, conduct the
n in person.

3) If he is unable to conduct the search in person,
here is no other person competent to make the
h present at the time, he may require any officer

ma ie, and the place to be searched; and such

diction to try the case or commit it for trial, and iders further detention unnecessary, he may r the accused to be forwarded to a Magistrate ing such jurisdication.

(3) A Magistrate authorizing under this section ntion in the custody of the police shall record reasons for so doing.

(

n

to whom he

168. When any subordinate police-officer has made any investigation under this chapter, he shall report the result of such investigation to officer in charge of the police-station.

eport of investion by subordinate ce-officer.

169. If, upon an investigation under this chapter, it appears to the officer in charge of the police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of

Release of accused hen evidence deficient

irect, to appear, if and when so required, before ... ko cognizance of the ... to try the accused or

170. (1) If, upon an investigation under this

Case to be sent to Magistrate when evidence is sufficient.

easonable ground as aforesaid, such officer shall for-

persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer;

Complainants and witnesses not to be subjected to restraint

or shall be subject to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings forwarded in custody

172 (1) Every police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case [illegible]
and may use suc [illegible]
but to aid it in [illegible]
accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who

vernment in that behalf, on receiving information that a person—

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the arest Magistrate empowered to hold inquests, and, less otherwise directed by any rule prescribed by e Local Government, or by any general or special der of the District or Sub-divisional Magistrate, all proceed to the place where the body of such ceased person is, and there, in the presence of o or more respectable inhabitants of the neighurhood, shall make an investigation, and draw a report of the apparent cause of death, describg such wounds, fractures, bruises, and other marks injury as may be found on the body, and stating what manner, or by what weapon or instruments f any), such marks appear to have been inflict-d.

(2) The report shall be signed by such policefficer and other persons, or by so many of them, as oncur therein, and shall be forthwith forwarded the District Magistrate or the Sub-divisional Maistrate.

(3) When there is any doubt regarding the cause f death, or when for any other reason, the policefficer [illegible]

ect t[illegible]

prescri[illegible]

view to its being examined, to the nearest Civil Surgeon or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) In the Presidency of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, and District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

Power to summon persons.

175. (1) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any

other case mentioned in section 174 clauses (a), (b) and (c) of subsection (1), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the police-officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined

PART IV.—PROCEEDINGS IN PROSECUTIONS

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIREIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial

177. Every offence shall ordinarily be enquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for

trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, or under this Code, section 526.

Accused triable in district where act is done, or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued

Illustrations.

(a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z The offence of the culpable homicide of A may be inquired into or tried either by X or Z

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days, within the local limits of the jurisdiction of Court Y, and, during the ten days more, within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z, to follow his ordinary pursuits The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed to A may be inquired into or tried either by X or Y.

(d) A is wounded in the Native State of Baroda and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Place of trial where act is offence by reason of relation to other offence.

Illustrations.

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, or having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Being a thug, or belonging to a gang of dacoits, escape from custody

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of

Criminal misappropriation and criminal breach of trust.

whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed

Stealing

(3) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief, or by any person who received or retained the same knowing or having reason to believe it to be stolen

Kidnapping and abduction

(4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained

Place of inquiry or trial where scene of offence is uncertain

182. When it is uncertain in which of several local areas an offence was committed, or

or not in one district only

where an offence is committed partly in one local area and partly in another, or

or where offence is continuing,

where an offence is a continuing one, and continues to be committed in more local areas than one, or

or consists of several acts

where it consists of several acts done in different local areas

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey

183 An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the

local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences against Railway, Telegraph, Post-office and Arms Acts.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraph, the Post-office or Arms and Ammunition may be inquired in a presidency-town whether the offence is stated to have been committed within such town or not:

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

High Court to decide, in case of doubt, district where inquiry or trial shall take place

185. (1) Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

Power to issue summons or warrant for offence committed beyond local jurisdiction

186 (1) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the [illegible]

British India), an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under

ıbility of British cts for offences nitted out of British ndia.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British lia or,

when any British subject commits an offence in territories of any Native Prince or Chief in lia, or

wh [illegible] whether a British ject [illegible] territories any [illegible]

he may be dealt with in respect of such offence if it had been committed at any place within Brit- India at which he may be found :

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory which the offence is alleged to have been committ- d, certifies that, in his opinion, the charge ought to inquired into in British India ; and, where there no Political Agent, the sanction of the Local Gov- nment shall be required .

'olitical Agents to tify fitness of in- ry into charge

Provided, also, that any proceedings taken against ıy person under this section which would be a bar subsequent proceedings against such person for the ıme offence if such offence had been committed British India shall be a bar to further proceed- ıgs against him under the Foreign Jurisdiction nd Extradition Act 1879, in respect of the same ffence in any territory beyond the limits of British ndia.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed, shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Power to direct copies of depositions and exhibits to be received in evidence

B.—Conditions requisite for Initiation of Proceedings

190. *(1)* Except as hereinafter provided, any Presidency Magistrate, District Magistrate, or Sub-divisonal Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

Cognizance of offences by Magistrate

(a) upon receiving a complaint of facts which constitute such offence ;

(b) upon a police-report of such facts ;

(c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under sub-section *(1)* clause *(a)*, or clause *(b)*, of offences for which he may try or commit for trial.

(3) The Local Government may empower any Magistrate of the first or second class to take cogni-

ce under sub-section (*1*), clause (*c*) of offences or
hich he may try or commit for trial.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*) clause (*c*) of the preceding section, the accused shall, before ny evidence is taken, be informed that he is entitled have the case tried by another Court, and if the ccused, or any of the accused if there be more than ne, objects to being tried by such Magistrate, the ase shall, instead of being tried by such Magistrate, e committed to the Court of Session, or transferred another Magistrate

Transfer or commitment of application of used.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate may transfer ny case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him

Transfer of cases by Magistrate

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

Cognizance of offences by Courts of Session

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local

195. (*1*) No Court shall take cognizance—

(*a*) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate;

Prosecution for contempts of lawful authority of public servants

(*b*) of any offence punishable under sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the same Code, when such offence is committed in, or in relation to any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

Prosecution for certain offences against public justice

(*c*) of any offence described in section 463, or punishable under section 471, 475, or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence.

such Court shall be deemed to be subordinate ;

(b) [illegible]

ture of the case in connection with which the offence is alleged to have been committed :

(c) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first mentioned Court is situate.

Prosecution for offences against the State.

196. No Court [illegible] (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor-General in Council, the Local Government, or some officer empowered by the Governor-General in Council in this behalf

Prosecution of Judges and public servants

197. (1) When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is ac-[illegible]

[illegible] powered in this behalf by such Government, or of some Court or other authority to which such Judge

Provided as follows—

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;

(b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing ; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing ;

(c) when the case has been transferred under section 192, and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case

201. (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court

Postponement of issue of process

202 (1) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf, or any Magistrate of the first or second class, is not

ding, and the case appears to be one in which, ording to the fourth column of the second schedule, ummons should issue in the first instance, he shall ıe his summons for the attendance of the accused. the case appears to be one in which, according to ıt column, a warrant should issue in the first ınnce, he may issue a warrant, or, if he thinks fit, ummons, for causing the accused to be brought to appear at a certain time before such Magis-.te or (if he has not jurisdiction himself) some [illegible] ion

[illegible] hall be deemed to

(3) When, by any law for the time being in rce any process-fees or other fees are payable, no ocess shall be issued until the fees are paid, and, such fees are not paid within a reasonable time, e Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused

205 (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, nd permit him to appear by his pleader

(2) But the Magistrate inquiring into or trying ıe case may, in his discretion, at any stage of the roceedings, direct the personal attendance of the ccused, and, if necessary, enforce such attendance ı manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (1) Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Sub-divi-

satisfied as to the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself, or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

(2) If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(3) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant, and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process.

204. (1) If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for pro-

When accused person to be discharged.

209. (1) When the evidence referred to in section 208, sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

(2) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. (1) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

ly with an European British subject, who is t to be committed for trial, or to be tried be- the High Court on a similar charge arising out he same transaction, and the Magistrate finds there are sufficient grounds for committing the ised for trial, he shall commit him for trial be- the High Court, and not before the Court of sion.

215. A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, by a Civil or Revenue Court under section 478, be quashed by the High Court only, and only a point of law.

ashing commit- s under section or 214.

216. When the accused has given in any list of witnesses under section 211, and has been committed for trial, the Magistrate shall summon such of the witnesses included in e list as have not appeared before himself, to ap- ar before the Court to which the accused has en committed.

ummons to witness- for defence when used is commit- .

Provided that, where the accused has been com- itted to the High Court, the Magistrate may, in s discretion, leave such witnesses to be summoned the Clerk of the Crown, and such witnesses may summoned accordingly :

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ods of justice, the Magistrate may require the ac- used to satisfy him that there are reasonable

Refusal to summon necessary witness less deposit made

re of the commitment and the form of the rge;

and shall send the charge, the record of the inquiry, and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment made to the High Court) to the Clerk of the own, or other officer appointed in this behalf by High Court.

Charge, &c. to be forwarded to High Court or Court of Session.

(2) When the . ' . . . . . . lish translation of such part ll be forwarded with the record.

English translation to be forwarded to High Court.

219. (1) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in anner hereinbefore provided to appear and give idence.

Power to summon supplementary witnesses

(2) Such examination shall, if possible, be taken the presence of the accused, and, where the agistrate is not a Presidency Magistrate, a copy the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding he taking of bail, commit the accused, by warrant, o custody.

Custody of accused pending trial.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

Charge to state offence

221. *(1)* Every charge under this Code shal state the offence with which th the accused is charged.

Specific name of offence sufficient description.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

(3) If the law which creates the offence does not give it any specific name, much of the definition of t offence must be stated as give the accused notice of the matter with which h is charged.

(4) The law and section of the law against whi the offence is *said to* have been committed shall b mentioned in the charge.

What [illegible]

(5) The fact that the charge is made is equiv [illegible] statement that every char [illegible] to [illegible] particular case.

Language of charge.

(6) In the presidency-towns the charge shall b written in English; elsewhere it shall be written either in English, or in the language of the Court.

Previous conviction when to be set out.

(7) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, th

fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

... at the murder of B. This is equiva-

...eption I., one or other of the three provisos to that ...eption applied to it

(b) A is charged, under section 326 of the Indian Penal ...de, with voluntarily causing grievous hurt to B by means ... an instrument for shooting This is equivalent to a

(c) A is accused of murder, cheating, theft, extortion, ...ultery or criminal intimidation, or using a false property-...ark The charge may state that A committed murder, ...cheating, or theft, or extortion, or adultery, or criminal ... used a false property-mark, without ...s contained in the ... which the offence ... referred to in the ...arge

(d) A is charged, under section 184 of the Indian Penal ...de, with intentionally obstructing a sale of property ...fered for sale by the lawful authority of a public servant ...he charge should be in those words.

222. (1) The charge shall contain such particul...

Particulars ...me, place ...

...n ... any) against whom, or the thing (if any) in respect of which, it was committed, as are

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge ken in sense of law ider which offence punishable

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

regarded as material

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There

that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added.

Court may alter charge

227. (1) Any Court may alter or add to any charge at any time before judgment is pronounced, or in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(2) Every such alteration or addition shall be read and explained to the accused

When trial may proceed immediately after alteration.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial, or adjourn the trial for such period as may be necessary.

Stay of proceedings if prosecution of offence in altered charge require previous sanction

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless

sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

Effect of material error

232. (1) If any Appellate Court, or the High Court in the exercise of its powers of revision, or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence, by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction

Joinder of Charges.

3. For every distinct offence of which any person is accused there shall be a separate charge, and every charge shall be tried separately, except in the mentioned in sections 234, 235, 236 and 239.

ate charges for offences.

Illustration.

s accused of a theft on one occasion, and of a causing us hurt on another occasion. A must be separately d and separately tried for the theft and causing grievurt

34. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to be last of such offences, he be charged with, and tried at one trial for, any ber of them not exceeding three.

e offences of nd within year e charged to-

(*2*) Offences are of the same kind when they are shable with the same amount of punishment r the same section of the Indian Penal Code, or y special or local law.

35. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than are committed by the same person, he may be ged with, and tried at one trial for, every such ice.

l for more than fence

(2) If the acts alleged constitute an offence fall

l, the person accused of them may be charged , and tried at one trial for, each of such offences.

(3) If several acts, of which one or more than one would, by itself or themselves, constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

Acts constituting one offence, but constituting, when combined, a different offence.

(4) Nothing contained in this section shall affect the Indian Penal Code, section 71.

Illustrations—

to sub-section (1) :

(a) A rescues B, a person in lawful custody, and in [illegible]

Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, [illegible] 497 of [illegible]

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals, knowing them to be [illegible] for the p[illegible]

under section 473 of the Indian Penal Code

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely

ccuses B of having committed an offence, knowing that iere is no just or lawful ground for such charges. A may o separately charged with, and convicted of, two offences nder section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses

Code

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in illustrations (a) to (h) respectively may be tried at the same time

to sub-section (2)

(i) A wrongfully strikes B with a cane A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in con-

sequence of such exposure A may be separately charg[illegible] with, and convicted of, offences under sections 317 and [illegible] of the Indian Penal Code

(*l*) A dishonestly uses a forged document as gen[illegible] evidence in order to convict B, a public servant, of an [illegible] fence under section 167 of the Indian Penal Code A [illegible] be separately charged with, and convicted of, offences [illegible] sections 471 (read with 466) and 196 of the same Code

to sub-section (3) :

(*m*) A commits robbery on B, and, in doing so [illegible] tarily causes hurt to him. A may be separately charg[illegible] with, and convicted of, offences under sections 323, 392 [illegible] 394 of the Indian Penal Code.

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of su[illegible] nature that it is doubtful wh[illegible] of several offences the fa[illegible] which can be proved will con[illegible] tute, the accused may be charged with having com[illegible] mitted all or any of such offences, and any numb[illegible] of such charges may be tried at once ; or he may b[illegible] charged in the alternative with having committ[illegible] some one of the said offences.

Illustrations.

(*a*) A is accused of an act which may amount to th[illegible] or [illegible] or criminal breach of trust [illegible] receiving s[illegible] ating, or be[illegible] receiving [illegible] ating

(*b*) A states on oath before the Magistrate that he [illegible] B hit C with a club Before the Sessions Court A state[illegible] oath that B never hit C. A may be charged in the alter[illegible] tive and convicted of intentionally giving false ev[illegible] although it cannot be proved which of these contra[illegible] statements was false

:37. (1) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he ht have been charged under the provisions of that ion, he may be convicted of the offence which he iown to have committed, although he was not :ged with it.

en a person is ed with one :e, he can be cted of another.

(2) When the accused is charged with an offence, nay be convicted of having attempted to commit : offence, although the attempt is not separately rged.

Illustration.

A is charged with theft It appears that he committed offence of criminal breach of trust, or that of receiving en goods. He may be convicted of criminal breach of it or of receiving stolen goods (as the case may be) though vas not charged with such offence

238. (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes complete minor offence, and such combination is

/hen offence proved uded in offence rged

[illegible]

› is not charged with it.

(3) Nothing in this section shall be deemed to ithorize a conviction of any offence referred to in ction 198 or section 199 when no complaint has been ade as required by that section.

Illustrations.

(a) A is charged, under section 407 of the Indi[illegible] Code, with criminal breach of trust in respect of [illegible] entrusted to him as a carrier. It appears tha[illegible] commit criminal breach of trust under section 406 in [illegible] of the property, but that it was not entrusted to [illegible] carrier. He may be convicted of criminal breach [illegible] under section 406

239. When more persons than one are ac[illegible] of the same offence or of dif[illegible] offences committed in the [illegible] transaction, or when one person is accused of com[illegible]ting any offence, and another of abetment o[illegible] attempt to commit, such offence, they may be cha[illegible] and tried together or separately, as the Court th[illegible] fit; and the provisions contained in the former [illegible] of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(a) A and B are accused of the same murder [illegible] B may be charged and tried together for the murder

(b) A and B are accused of a robbery, in the course [illegible] which A commits a murder with which B has nothing [illegible] do. A and B may be tried together on a charge, char[illegible] both of them with the robbery, and A alone with [illegible] murder.

(c) A and B are both charged with a theft, and B [illegible] charged with two other thefts committed by him in [illegible] course of the same transaction. A and B may be both tr[illegible] together on a charge charging both with the one theft, a[illegible] B alone with two other thefts

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the

ithdrawal of re-ding charges on iction on one of ral charges.

cer conducting the prosecution, may, with the con-t of the Court, withdraw the remaining charge or

:h charge or charges, unless the conviction be set de, in which case the said Court (subject to the ler of the Court setting aside the conviction) may oceed with the inquiry into or trial of the charge charges so withdrawn.

CHAPTER XX.

F THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases:—

Procedure in sum-ns-cases

242. When the accused appears or is brought

Substance of accu-tion to be stated.

accused shall be st

i if he has any cause to show why he should not convicted; but it shall not be necessary to frame formal charge.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in

Conviction on admis-n of truth of accu-tion.

ie words used by him; and, if he shows no sufficient

247. If the summons has been issued on com-

; may be adjourned, the complainant does not ap-
ar, the Magistrate shall, notwithstanding anything
reinbefore contained, acquit the accused, unless
some reason he thinks proper to adjourn the
aring of the case to some other day :

Provided that, where the complainant is a pub-
: servant and his personal attendance is not requir-
, the Magistrate may dispense with his attendance,
d proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magis-
ate that there are sufficient grounds for permitting
m to withdraw his complaint, the Magistrate may
rmit him to withdraw the same, and shall there-
pon acquit the accused.

Withdrawal of com-
unt.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanc-
on of the District Magistrate, any other Magistrate,
ıay, for reasons to be recorded by him, stop the pro-
eedings at any stage without pronouncing any judg-
ıent, either of acquittal or conviction, and may
hereupon release the accused.

Power to stop pro-
edings when no com-
aınant

Frivolous Accusations in Summons and Warrant-cases.

250. (*1*) If, in any case instituted by complaint as defined in this Code, or upon information given to a police-
officer or to a Magistrate, a person is accused before

Frivolous or vexa-
ious accusations.

a Magistrate of any offence triable by a Magistrat and the Magistrate by whom the case is heard discharges or acquits the [illegible] sation against hi [illegible] Magistrate may, [illegible] discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit.

Provided that, before making any such direction the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his or of discharge or acquittal, his reasons awarding the compensation.

(*2*) Compensation of which a Magistrate has ordered payment under sub-section (*1*) shall be recoverable as if it were a fine :

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(*3*) A complainant or informant who has been ordered under sub-section (*1*) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation an accused person is made in a case which is subt to appeal under sub-section (3), the compensation ll not be paid to him before the period allowed the presentation of the appeal has elapsed, or, if appeal is presented, before the appeal has been cided.

(5) At the time of awarding compensation in any bsequent civil suit relating to the same matter, the urt shall take into account any compensation paid recovered under this section.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-cases

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases:—

Evidence for prosecution.

252 (1) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

Discharge of accused.

253. (1) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out

which, if unrebutted, would warrant his convicti the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed prevent a Magistrate from discharging the accu at any previous stage of the case if, for reasons to recorded by such Magistrate, he considers the char to be groundless.

Charge to be framed when offence appears proved

254. If, when such evidence and examinat have been taken and made, c at any previous stage of the ca the Magistrate is of opinion th there is ground for presuming that the accused h committed an offence triable under this chapt which such Magistrate is competent to try, an which, in his opinion, could be adequately puni by him, he shall frame in writing a charge agai the accused.

Plea

255. (1) The charge shall then be read and e plained to the accused, and h shall be asked whether he guilty or has any defence to make.

(2) If the accused pleads guilty, the Magistra shall record the plea, and may in his discretion c vict him thereon.

Defence

256 (1) If the accused refuses to plead, or d not plead, or claims to be tri he shall be required to state w ther he wishes to cross-examine any, and, if so, wh of the witnesses for the prosecution whose evid

fter
hey
hen
roduce his evidence.

(2) If the accused puts in any written statement, he Magistrate shall file it with the record.

Process for compelling production of evidence at instance f accused.

257. (1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay, or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined, or had the opportunity of cross-examining, any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(2) ... ning any
reason-
purposes
of the trial be deposited in Court.

Acquittal.

258. (1) If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

(2) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

(e) [illegible]

(f) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(g) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(h) mischief, under section 427 of the same Code ;

(i) house-trespass, under section 448, and offences under sections 451, 456 and 457, of the same Code ;

(j) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(k) abetment of any of the foregoing offences,

(l) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(m) offences under section 20 of the Cattle Trespass Act, 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(2) [illegible]

trate or Bench shall recall any witnesses who may have been examined and proceed to rehear the case in manner provided by this Code.

Power to invest Bench of Magistrates invested with less power

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(a) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447,

(b) offences against Municipal Acts and the conservancy clauses of Police Acts which are punishable only with fine, or with imprisonment for a term not exceeding one month ;

(c) abetment of any of the foregoing offences,

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence

Procedure for summons and warrant cases applicable

262. (1) In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal ;e ; but he or they shall enter in such form as Local Government may direct the following culars :—

ｒd in cases there is no ap-

(a) the serial number ;

(b) the date of the commission of the offence ;

(c) the date of the report or complaint ;

(d) the name of the complainant (if any) ;

(e) the name, parentage and residence of the accused ;

(f) the offence complained of and the offence (if any) proved, and in cases coming under clause (d), clause (e), clause (f) or clause (g) of sub-section (1) of section 260 the value of the property in respect of which the offence has been committed ;

(g) the plea of the accused and his examination (if any) ;

(h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor ;

(i) the sentence or other final order ; and

(j) the date on which the proceedings terminated.

264. (1) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate Bench shall, before passing sentence, record a lgment embodying the substance of the evidence d also the particulars mentioned in section 263.

ecord in appealable s

(2) Such judgment shall be the only record in cases coming within this section.

265. (1) Records made under section 263 and judgments recorded under section 264 shall be written by the

Language of record and judgment

presiding officer, either in English or in the language ... such presiding ... directs, in

(2) The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to ... the aforesaid record or ... appointed in the ... Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

Bench may be authorized to employ clerk

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. In this chapter, except in sections 2.. and 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established or to be established under the Indian High Courts Act, 1861

"High Court" defined.

includes the Chief Court of the Punjab, the ef Court of Lower Burma, and such other irts as the Governor-General in Council may, notification in the Gazette of India, declare to be gh Courts for the purposes of this chapter.

ıals before High t to be by jury. 267. All trials under this chapter before a High Court shall be jury;

and, notwithstanding anything herein conıed, in all criminal cases transferred to a High urt under this Code, or under the Letters tent of any High Court established under the lian High Courts Act, 1861, the trial may if the gh Court so directs, be by jury.

ials before Court of sion to be by jury with assessors 268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

ocal Government y order trials be- Court of Session be by jury.

269. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by order, in the official Gazette, direct that the trial of all offences, or of y particular class of offences, before any Court of ssion, shall be by jury in any district, and may, th the like sanction, revoke or alter such order.

(2) The Local Government, by like order, may so declare that, in the case of any district in which e trial of any offence is to be by jury, the trial such offences shall, if the Judge, on application ade to him or of his own motion, so directs, be by rors summoned from a special jury list, and may voke or alter such order.

(3) When the accused is charged at the same ial with several offences of which some are and

some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, the charge shall be read out in Court and explained to him and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

(2) If the accused pleads guilty, the plea shall be recorded and he may be convicted thereon.

Refusal to plead, or claim to be tried.

272. If the accused refuses to, or does not plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that subject to the right of objection hereinafter mentioned the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commen-

nt of the trial of the person charged, that any
rge or any portion thereof is clearly unsustainable,
Judge may make on the charge an entry to
t effect.

(2) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case
y be.

fect of entry

C—Choosing a Jury.

274. (1) In trials before the High Court, the jury shall consist of nine persons

mber of jury.

(2) In trials of jury before the Court of Session
jury shall consist of such uneven number, not
ng less than three, or more than nine, as the
cal Government, by order applicable to any
rticular district or to any particular class of
ences in that district, may direct.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who
neither Europeans nor Americans.

ry for trial of pers not Europeans Americans before rt of Session.

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court
y from time to time by rule direct:

urors to be chosen lot.

Provided that—

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in
spect to the choosing of jurors shall be followed;

Existing practice intained.

secondly, in case of a deficiency of p

persons not summoned when eligible ;

summoned, the number of required may, with the le the Court, be chosen from such other persons as be present :

trials before special jurors.

thirdly, in the presidency-tow

(*a*) if the accused person is charged with h committed an offence punishable death, or

(*b*) if in any other case a Judge of the E Court so directs,

the jurors shall be chosen from the special j list hereinafter prescribed ; and

fourthly, in any district for which the L Government has declared that the trial of ce offences may be by special jury, the jurors sh any case in which the Judge so directs, be ch from the special jury list prescribed in section 3

277. (*1*) As each juror is chosen, his n

Names of jurors to be called

shall be called aloud, and, u his appearance, the accused be asked if he objects to be tried by such juror.

(2) Objection may then be taken to such juror

Objection to jurors.

the accused or by the prose and the grounds of obje shall be stated :

Provided that, in the High Court, obje

Objection without grounds stated.

without grounds stated sha allowed to the number of e on behalf of the Crown and eight on behalf of person or all the persons charged.

Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

objection.

some presumed or actual partiality in the juror ;

some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

his having by habit or religious vows relinquished all care of worldly affairs ;

his holding any office in or under the Court;

his executing any duties of police or being entrusted with police-duties ;

his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

his inability to understand the language in which the evidence is given, or when such evidence is interpreted, the language in which it is interpreted ;

any other circumstance which, in the opinion of the Court, renders him improper as a juror.

(1) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded, and be final.

of objection.

(2) If the objection is allowed, the place juror shall be supplied other juror attending in ence to a summons and in manner provided by section 276, or if ther such other juror present, then by any other present in the Court whose name is on the jurors, or whom the Court considers a proper to serve on the jury :

Supply of place of juror against whom objection allowed.

Provided that no objection to such juror or person is taken under section 278 and allowed

280. (1) When the jurors have been c they shall appoint one of number to be foreman.

Foreman of jury.

(2) The foreman shall preside in the d the jury, deliver the verdict of the jury, and as information from the Court that is required by jury or any of the jurors.

(3) If a *majority* of the jury do not, within time as the Judge thinks reasonable, agree in appointment of a foreman, he shall be appointed the Court.

281 When the foreman has been app the jurors shall be sworn the Indian Oaths Act, 187

Swearing of jurors.

282. (1) If, in the course of a trial by jury any time before the return of verdict, any juror, from

Procedure when juror ceases to attend, &c

attendi[illegible]
sents hi[illegible]
attendance, or if it appears that any juror is un to understand the language in which the evidence given, or, when such evidence is interpreted,

:uage in which it is interpreted, a new juror shall
ıdded, or the jury shall be discharged, and a new
r chosen.

(2) In each of such cases the trial shall com-
nce anew.

ischarge of jury in of sickness of oner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of naining at the bar

D—Choosing Assessors.

Assessors how chosen.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks , from the persons summoned to act as such.

Procedure when assessor is unable to attend.

285. (1) If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented om attending throughout the trial, or absents himlf, and it is not practicable to enforce his attendce, the trial shall proceed with the aid of the other sessor or assessors.

(2) If all the assessors are prevented from attendg, or absent themselves, the proceedings shall be ıyed and a new trial shall be held with the aid of esh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for secution.

286. (1) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Inın Penal Code or other law the description of the

offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

Examination of witnesses.

(2) The prosecutor then examine his witnesse

287. The examination of the accused dul corded by or before the co ting Magistrate shall be te ed by the prosecutor and as evidence.

Examination of accused before Magistrate to be evidence.

288. The evidence of a witness duly taken the presence of the accused fore the committing Magistr may, in the discretion of the p siding Judge, if such witness is produced and ex mined, be treated as evidence in the case.

Evidence given at preliminary inquiry admissible

289. (1) When the examination of the witnes for the prosecution and the ex amination (if any) of the accuse are conclude l, the accused sh be asked whether he means to adduce evidence.

Procedure after examination of witnesses for prosecution

(2) If he says that he does not, the prosecuto may sum up his case; and, if the Court conside that there is no ev[illegible] the offer [illegible] of assess[illegible] jury, dir[illegible]

(3) If the accused, or any one of several acc says that he means to adduce evidence, and the C considers that there is no evidence that the acc committed the offence, the Court may then, in a tried with the aid of assessors, record a finding, o a case tried by a jury, direct the jury to retur verdict of not guilty.

(4) If the accused, or any one of several accused, that he means to adduce evidence, and the Court iders that there is evidence that he committed offence, or if, on his saying that he does not mean adduce evidence, the prosecutor sums up his case, the Court considers that there is evidence that accused committed the offence, the Court shall on the accused to enter on his defence.

290 The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and king such comments as he thinks necessary on the lence for the prosecution He may then examine witnesses (if any), and, after their cross-examiion and re-examination (if any), may sum up his e.

fence.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 1 and 231, be entitled of right to have any witness moned, other than the witnesses named in the list livered to the Magistrate by whom he was comitted for trial.

ight of accused as examination and of witses

292. If the accused or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

Prosecutor's right reply

293. (1) [illegible]

View by jury isors.

l is alleged

lace in which any other transaction material to the ial is alleged to have occurred, the Court shall

make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(2) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessor may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assessors to attend at adjourned sitting.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and, subject to such rules, the presiding Judge may decide whether and in what manner the jurors shall be kept together under the charge of an officer of the Court or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the

Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and ying down the law by which the jury are to be uided

Duty of Judge

298. (1) In such cases it is the duty of the Judge—

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the ourse of his summing up, express to the jury his pinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceedng.

Illustrations.

(a) It is proposed to prove a statement made by a peron not being a witness in the case, on the ground that

It is the duty of the jury to decide which view of the

(b) The question is whether a person entertained a reasonable belief on a particular point—whether work was done th reasonable skill or due diligence

Each of these is a question for the jury.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Retirement to conler.

Except with the leave of the Court, no person ther than a juror shall speak to, or hold any communication with, any member of such jury.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, r what is the verdict of a majority.

Delivery of verdict

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the ury may deliver their verdict, although they are not unanimous.

Procedure where ury differ

303. (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Verdict to be given n each charge.

Judge may question ury.

(2) Such questions and the answers to them shall be recorded.

Questions and answers to be recorded

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is

Amending verdict

recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. (1) When in a case tried before a High Court, the jury are unanimous in their opinion, or when as many as six are of one opinion, and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(3) If the Judge disagrees with the majority, he shall at once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (1) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall sub-

the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal stating the offence which he considers to have been committed

(2) Whenever the Judge submits a case under his section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody, or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be) and shall be tried by another jury unless the
be re-tried, in
n entry to that
' shall operate as

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinions of assessors

309. (1) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evi-

or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

11. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent ...e, if the fact of the previous conviction is rele... under the provisions of the Indian Evidence ... 1872.

n evidence of ... conviction ... given.

...List of Jurors for High Court, and summoning Jurors for that Court.

12. The names of not more than four hundred persons shall at any one time be entered in the special jurors' list.

...ber of special

13. (1) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules ...e High Court from time to time prescribes, pre...—

... of common and ... l jurors

(a) a list of all persons liable to serve as common jurors; and

(b) a list of persons liable to serve as special jurors only.

(2) Regard shall be had, in the preparation of ... latter list, to the property, character and educa... of the persons whose names are entered therein.

(3) No person shall be entitled to have his name ...red in the special juror's list merely because he

may have been entered in the special jurors' list a previous year.

(4) The Governor-General in Council in the case of the High Court at Fort William in Bengal, and in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

Discretion of officer preparing lists.

(5) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised

314. (1) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

(2) Revised list of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

Number of jurors to be summoned in presidency-towns

315. (1) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(2) No person shall be so summoned more than [on]ce in six months unless the number cannot be made without him.

(3) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned [for s]uch sessions.

[Sup]plementary sum-[mons.]

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency-towns for the exercise of its [orig]inal criminal jurisdiction, the Court of Session at [tha]t place shall, subject to any direction which may [be g]iven by the High Court, summon a sufficient [num]ber of jurors from its own list, in the manner [here]inafter prescribed for summoning jurors to the [Cou]rt of Session.

[Su]mmoning jurors [outsi]de the presidency-[town]s.

317. (1) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, [afte]r communication with the commanding officer, [cau]se to be summoned such number of commissioned [and] non-commissioned officers in Her Majesty's [Ar]my resident within ten miles of its place of sitting [as t]he Court considers to be necessary to make up [the] juries required for the trial of persons charged [wit]h offences before the High Court as aforesaid.

[Mi]litary jurors

(2) All officers so summoned shall be liable to

[ex]used on the ground of urgent military duty, or for [any] other special military reason.

318. Any person summoned under secti
Failure of jurors to attend
section 316 or section 31
without lawful excuse, t
attend as required by the summons, or who,
attended, departs without having obtained th
mission of the Judge, or fails to attend after
journment of the Court after being ordered to a
shall be deemed guilty of a contempt and be l
by order of the Judge, to such fine as he think
and, in default of payment of such fine, to imp
ment for a term not exceeding six months in
civil jail until the fine is paid.

Provided that the Court may in its discre
remit any fine or imprisonment so imposed.

*K.—List of Jurors and Assessors for Cour
Session, and summoning Jurors and Assessors l
that Court.*

319. All male persons between the ages of tw
Liability to serve as jurors or assessors
ty-one and sixty shall, except t
next hereinafter mentioned, b
liable to serve as jurors or assessors at any trial b
within the district in which they reside,

or, if the Local Government, on consideratio
local circumstances, has fixed any smaller ar
this behalf, within the area so fixed.

320. The following persons are exempt f
Exemptions
liability to serve as jurors or
sessors, namely ;

(a) officers in civil employ superior in rank
a District Magistrate ;

(b) salaried Judges ;

(c) Commissioners and Collectors of Revenu
or Customs ;

(d) police-officers and persons engaged in the Preventive Service in the Customs Department;

(e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(f) persons actually officiating as priests or ministers of their respective religions;

(g) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(h) surgeons and others who openly and constantly practise the medical profession;

(i) legal practitioners (as defined by the Legal Practitioners Act, 1879) in actual practice;

(j) persons employed in the Post-office and Telegraph Department;

(k) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;

(l) other persons exempted by the Local Government from liability to serve as jurors or assessors.

321. (1) The Sessions Judge and the Collector of the district, or such other officer as the Local Government appoints in this bahalf, shall prepare and make out, in alphabetical order a list of person liable to serve as jurors or assessors and qualified in the judgment of

List of jurors and assessors

the Sessions Judge and Collector or other aforesaid to serve as such, and not likely t cessfully objected to under section 278, clau (h), both inclusive.

(2) The list shall contain the name, place and quality or business of every such perso if the person is an European or an Americ list shall mention the race to which he belon

322. Copies of such list shall be stuck u office of the Collector o officer as aforesaid, and Court-houses of the District Magistrate and District Court, and extracts therefrom in som spicuous place in the town or towns in or near the persons named in the extract reside.

Publication of list.

323. To every such copy or extract sh subjoined a notice stating objections to the list wi heard and determined by the Sessions Judge Collector or other officer as aforesaid, at the Se Court-house, and at a time to be mentioned i notice.

Objections of list

324. (1) For the hearing of such objection Sessions Judge shall sit with Collector or other offic aforesaid, and shall, at the time and place menti in the notice, revise the list and hear the obje (if any) of persons interested in the amendment the of, and shall strike out the name of any person suitable in their judgment to serve as a juror or an assessor, or who may establish his right to exemption from service given by section 320 ... in sert the name of any person omitted from whom they deem qualified for such service.

Revision of list

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid, and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

Annual revision of list

(6) The list so prepared and revised shall be again revised once in every year.

(7) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Preparation of list of special jurors

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector, or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of

any person in such special list shall not involve removal of his name from the revised list, nor lieve him of his liability to serve as an ordinary juror in cases not tried by special jury.

District Magistrate to summon jurors and assessors.

326. (1) The Sessions Judge shall ordinarily seven days at least before the day which he may from time to time fix for holding the Session send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list or the said *special list* as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of *assessors* at the said Session, *the* number to be summoned not being less than double the number required for any such trial.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

Power to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the periods specified in section 326, when the number of trial before the Court renders the attendance of *one set of jurors* or assessors for the whole session oppressive or whenever for other reasons, such direction is found to be necessary.

Form and contents of summons.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Government or ailway servant may be xcused.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to erve in which he is so summoned may excuse his ttendance if it appears on the representation of the ıead of the office in which he is employed that he :annot serve as a juror or assessor, as the case may ɔe, without inconvenience to the public.

Court may excuse ttendance of juror or ıssessor

330. (*1*) The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

Court may relieve special jurors from liability to serve again as jurors for twelve months

(*2*) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

List of jurors and assessors attending

331 (*1*) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(*2*) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(*3*) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor

332. (*1*) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without

having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any movable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shewn, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine be paid before the end of the said term.

L.—Special Provisions for High Courts.

Power of Advocate-General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate-General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals

the Chief Justice of such Court from time to time points.

335. (1) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor-eneral in Council in the case of the High Court at ort William, or the Local Government in the case the other High Courts, may direct.

Place of holding sittings

(2) But it may, from time to time, in the case of o High Court at Fort William with the consent of e Governor-General in Council, and in all other ses with the consent of the Local Government, old sittings at such other places within the local mits of its appellate jurisdiction as the High Court ppoints.

(3) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

Notice of sittings.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within ertain specified districts or during certain specified eriods of the year, shall be tried at the ordinary lace of sitting of the Court, or direct that they shall e tried at a particular place named.

Place of trial of uropean British subjects.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND T

337. (*1*) In the case of any offence exclusively by the Cou Session or High Court, th trict Magistrate, a Presi Magistrate, any Magistrate of the first class inq into the offence, or, with the sanction of the D Magistrate, any other Magistrate, may, with view of obtaining the evidence of any person posed to have been directly or indirectly conc in, or privy to, the offence under inquiry, tend pardon to such person on condition of his makn full and true disclosure of the whole of the circ stances within his knowledge relative to such offe and to every other person concerned, whethe principal or abettor, in the commission thereof

Tender of pardon to accomplice

(*2*) Every person accepting a tender under section shall be examined as a witness in the case

(*3*) Such person, if not on bail, shall be deta in custody until the termination of the trial by Court of Session or High Court, as the case may

(*4*) Every Magistrate, other than a Presid Magistrate, who tenders a pardon under this secti [illegible] and when [illegible]

[illegible]

the case himself, although the offence [illegible] accused appears to have committed may be trie by such Magistrate.

338. At any time after commitment, but befor judgment is passed, the Court t which the commitment is ma may, with the view of obtain

Power to direct tender of pardon

the trial the evidence of any person supposed to e been directly or indirectly concerned in, or ry to, any such offence, tender, or order the comting Magistrate or the District Magistrate to der, a pardon on the same condition to such person.

339. (1) Where a pardon has been tendered, under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied th the condition on which the tender was made, may be tried for the offence in respect of which pardon was so tendered, or for any other offence which he appears to have been guilty in connection with the same matter

Commitment of person to whom pardon been tendered.

(2) The statement made by a person who has cepted a tender of pardon may be given in evidence ainst him when the pardon has been forfeited ider this section.

(3) No prosecution for the offence of giving false idence in respect of such statement shall be entertained without the sanction of the High Court.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

Right of accused to defended

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial, and, in e case of a Court other than a High Court, if such iquiry results in a commitment, or if such trial sults in a conviction, the proceedings shall be forarded to [the High Court with a report of the

Procedure where accused does not understand proceedings

circumstances of the case, and the High Court sh: pass thereon such order as it thinks fit.

Power to examine the accused.

342. (1) For the purpose of enabling the a cused to explain any circu stances appearing in the eviden against him, the Court may, any stage of any inquiry or trial, without previous warning the accused, put such questions to him the Court considers necessary, and shall, for th purpose aforesaid, question him generally on t case after the witnesses for the prosecution have be examined and before he is called on for his defence

(2) The accused shall not render himself liable t punishment by refusing to answer such question or by giving false answers to them; but the Cou and the jury (if any) may draw such inferenc from such refusal or answers as it thinks just.

(3) The answers given by the accused may b taken into consideration in such inquiry or trial, an put in evidence for or against him in any other in quiry into, or trial for, any other offence which suc answers may tend to show he has committed.

(4) No oath shall be administered to the accus

No influence to be used to induce disclosures.

343. Except as provided in sections 337 an 338, no influence, by means o any promise or threat or other wise, shall be used to an accuse person to induce him to disclo or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings

344. (1) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisabl to postpone the commencement of, or adjourn, any inquiry or

, the Court may, if it thinks fit, by order in ing, stating the reasons therefor, from time tc , postpone or adjourn the same on such terms as inks fit, for such time as it considers reasonable, may by a warrant remand the accused if in ody:

mand

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding en days at a time.

(2) Every order made under this section by a rt other than a High Court shall be in writing ied by the presiding Judge or Magistrate.

asonable cause emand

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further lence may be obtained by a remand, this is a reaable cause for a remand.

ompounding of- es

345. (1) The offences punishable under the sections of the Indian Penal Code described in the first two columns the table next following may be compounded by persons mentioned in the third column of that ile:—

Offence	Sections of Indian Penal Code applicable	Persons by whom offence may be compounded.
tering words, &c, with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.

Offence.	Sections of Indian Penal Code applicable.	Persons by [illegible] offence may compounde[illegible]
Causing hurt ...	323, 334	The person to [illegible] the hurt is ca[illegible]
Wrongfully restraining or confining any person	341, 342	The person [illegible] trained or [illegible] fined
Assault or use of criminal force	352, 355, 358	The person ass[illegible] ed or to wh[illegible] criminal forc[illegible] used
Unlawful compulsory labour.	374	The person comp[illegible] led to labour
Mischief, when the only loss or damage caused is loss or damage to a private person	426, 427	The person to wh[illegible] the loss or da[illegible] age is caused
Criminal trespass ...	447	The person in p[illegible] session of th[illegible] property t[illegible] passed upon.
House-trespass ...	448	
Criminal breach of contract of service.	490, 491, 492	The person wi[illegible] whom the off[illegible] der has contr[illegible] ed

Offence	Section of Indian Penal Code applicable	Persons by whom offence may be compounded.
dultery	497	The husband of the woman
nticing or taking away or detaining with a criminal intent a married woman	498	
Defamation	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	The person defamed.
Insult intended to provoke a breach of the peace	504	The person insulted
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated

(2) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337 or section 338 of the Indian

Penal Code, may, with the permission of the Co before which any prosecution for such offen pending, be compounded by the person to whor hurt has been caused.

(3) When any offence is compoundable t this section, the abetment of such offence or att to commit such offence (when such attempt is i an offence) may be compounded in like manner

(4) When the person who would otherwise competent to compound an offence under this sec is a minor, an idiot, or a lunatic, any person c petent to contract on his behalf may compound offence.

(5) When the accused has been committed trial, or when he has been convicted, and an app is pending, no composition for the offence shall allowed without the leave of the Court to which is committed, or, as the case may be, before wh the appeal is to be heard.

(6) The composition of an offence under th section shall have the effect of an acquittal of t accused.

(7) No offence shall be compounded except provided by this section.

Procedure of Provincial Magistrate in cases which he cannot dispose of.

346. (1) If, in the course of an enquiry or trial before a Magistrate in any district outside the presidency towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such

ıer Magistrate, having jurisdiction, as the District ıgistrate directs.

(2) The Magistrate to whom the case is submit-l may, if so empowered, either try the case him-lf, or refer it to any Magistrate subordinate to him ıving jurisdiction, or commit the accused for trial.

rocedure when, af-· commencement of ıquiry or trial, Ma-ıtrate finds case ould be committed.

347. (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by ıe Court of Session or High Court, and if he is ıpowered to commit for trial, he shall stop further roceedings and commit the accused under the pro-isions hereinbefore contained.

(2) If such Magistrate is not empowered to com-ıit for trial, he shall proceed under section 346.

Trial of persons pre-iously convicted of ffences against coin-ge, stamp law or pro-erty

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII, of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of ıny offence punishable under either of those chapters vith imprisonment for a term of three years or ıpwards, shall be committed to the Court of Session ır High Court, as the case may be, unless the Magis-ırate before whom the proceedings are pending is of ıpinion that he can himself pass an adequate sentence if the accused is convicted:

Providèd that, if the District Magistrate has been ıvested with powers under section 30, the case may

be transferred to him instead of being committ the Court of Session.

349. (*1*) Whenever a Magistrate of the seco third class, having jurisdic is of opinion, after hearin evidence for the prosecution the accused, that the accu guilty, and that he ought to receive a punish different in kind from, or more severe than, which such Magistrate is empowered to inflict, or he ought to be required to execute a bond u section 106, he may record the opinion and su his proceedings, and forward the accused, to District Magistrate or Sub-divisional Magistrat whom he is subordinate.

Procedure when Magistrate cannot pass sentence sufficiently severe.

(*2*) The Magistrate to whom the proceedings submitted may, if he thinks fit, examine the part and recall and examine any witness who has alre given evidence in the case, and may call for take any further evidence, and shall pass such ju ment, sentence or order in the case as he thinks and as is according to law:

Provided that he shall not inflict a punishm more severe than he is empowered to inflict un sections 32 and 33.

350. (*1*) Whenever any Magistrate, after havi heard and recorded the whole any part of the evidence in inquiry or a trial, ceases exercise jurisdiction, and is su ceeded by another Magistra who has and who exercises such jurisdiction, t Magistrate so succeeding may act on the evidence recorded by his predecessor, or partly recorded by h

Convicion or commitment on evidence partly recorded by one Magistrate and partly by another.

edecessor and partly recorded by himself; or he ıy resummon the witness and recommence the quiry or trial:

Provided as follows :—

(a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be resummoned and reheard,

(b) the High Court or, in cases tried by

aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

Detention of offenders attending Court

351. (1) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance, and which, from the evidence, may

reheard.

352. The place in which any Criminal C[ourt] is held for the purpose of in[quir]ing into or trying any of[fence] shall be deemed an open Court, to which the p[ublic] generally may have access, so far as the same [can] conveniently contain them :

Courts to be open.

Provided that the presiding Judge or Magis[trate] may, if he thinks fit, order at any stage of any [in]quiry into, or trial of, any particular case, that [the] public generally, or any particular person shall [not] have access to, or be or remain in, the room or bu[ild]ing used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Except as otherwise expressly provid[ed], all evidence taken under Chap[]ters XVIII., XX., XXI., XXI[I.] and XXIII. shall be taken in t[he] persence of the accused, or, when his personal atte[n]dance is dispensed with, in presence of his pleader.

Evidence to be taken in presence of accused

354. In inquiries and trials (other than sum[]mary trials) under this Code by or before a Magistrate (oth[er] than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner :—

Manner of recording evidence outside presidency-towns

355. (1) In summons-cases tried before a Magis[]trate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-sectio[n] (1) of section 260, clauses (b) to (m), both inclusive, when tried

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

a Magistrate of the first or second class, and in proceedings, under section 514 (if not in the course trial), the Magistrate shall make a Memorandum the substance of the evidence of each witness as e examination of the witness proceeds.

(2) Such Memorandum shall be written and ;ned by the Magistrate with his own hand, and ill form part of the record.

(3) If the Magistrate is prevented from making nemorandum as above required, he shall record e reason of his inability to do so, and shall cause ch memorandum to be made in writing from his :tation in open Court, and shall sign the same ; id such memorandum shall form part of the :cord.

356. (1) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XIII. and XVII the evidence of each witness all be taken down in writing in the language of the ... or in his ...nal direc- ...ed by the lagistrate or Sessions Judge

Record in other ies outside presi- acy-towns

(2) When the evidence of such witness is given in English, the Magistrate or Sessions Judge ... take it down ...d, unlsss the ... the language ...ed translation ... Court shall

Evidence given in ...glish.

(3) In cases in which the evidence is n down in writing by the trate or Sessions Judge, l as the examination of e ness proceeds, make a me dum of the substance of what such witness d and such memorandum shall be written and by the Magistrate or Sessions Judge with l hand, and shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(4) If the Magistrate or Sessions Judge vented from making a memorandum as above e) he shall record the reason of his inabi make it.

357 (1) The Local Government may that in any district or par district, or in proceedings b any Court of Session, or before any Magistra class of Magistrates, the evidence of each wi shall, in the cases referred to in section 356, be t down by the Sessions Judge or Magistrate wit own hand and in his mother-tongue, unless prevented by any sufficient reason from tak down the evidence of any witness, in which ca shall record the reason of his inability to do so shall cause the evidence to be taken down in wr from his dictation in open Court.

Language of record of evidence.

(2) The evidence so taken down shall be sig by the Sessions Judge or Magistrate, and shall for part of the record :

Provided that the Local Government may dir ... Magistrate to take down t ... ge, or in the lang ... language is not t

mother-tongue.

58. In cases of the kind mentioned in section

on to Magis- in cases under 355.

355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the man- provided in section 356, or, if, within the local s of the jurisdiction of such Magistrate, the Lo- Government has m de the order referred to in on 357, in the manner provided in the same on.

359. (1) Evidence taken under section 356 or

le of recording ice under sec- 56 or section 357

section 357 shall not ordinarily be taken down in the form of question and answer, but in the of a narrative.

(2) The Magistrate or Sessions Judge may, in discretion, take down, or cause to be taken down, particular question and answer

360. (1) As the evidence of each witness taken

cedure in regard ich evidence when leted

under section 356 or section 357 is completed, it shall be read over to him in the presence of accused, if in attendance, or of his pleader, if he ears by pleader, and shall, if necessary, be cor- ed.

(2) If the witness denies the correctness of any t of the evidence when the same is read over to , the Magistrate or Sessions Judge may, instead correcting the evidence, make a memorandum reon of the objection made to it by the witness, shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language erent from that in which it has been given and witness does not understand the language in ich it is taken down, the evidence so taken down

shall be interpreted to him in the language in whi
it was given, or in a language which he understan

Interpretation of evidence to accused or his pleader.

361. (*1*) Whenever any evidence is given in language not understood by t accused, and he is present person, it shall be interpreted him in open Court in a language understood b him.

(*2*) If he appears by pleader, and the eviden is given in a language other than the language of the Cour, and *not understood by the pleader*, it shall be interpreted to such pleader in that languag

(*3*) When documents are put in for the purpo of formal proof, it shall be in the discretion of th Court to interpret as much thereof as appears nece sary.

Record of evidence in Presidency Magistrates' Courts.

362. (*1*) In every case in which a Presidenc Magistrate imposes a fine exceed ing two hundred rupees, or im prisonment for a term exceeding six months, he shall either take down the evidence of *the witnesses* with his own hand, or cause it to be taken down *in writing from his dictation* in ope Court. All evidence so taken down shall be signed by the Magistrate *and shall form part of the record.*

(*2*) Evidence so taken down shall ordinarily be recorded in *the form of a narrative*, but the Magis trate may, in his discretion, take down, *or cause to be taken down*, any particular question *or answer.*

(*3*) Sentences passed under section 35 *on the* same occasion shall, for the purposes of this *section*, be considered as *one sentence.*

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such [...]arks (if any) as he thinks material respecting the [...]neanour of such witness whilst under examination.

[...]emarks respecting [...]eanour of witness.

364. (1) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court estab[...]ed by Royal Charter or the Chief Court of the [...]njab, or the Chief Court of Lower Burma, the [...]ole of such examination, including every question [...]t to him and every answer given by him, shall be [...]corded in full, in the language in which he is exa[...]ned, or, if that is not practicable, in the language [...] the Court or in English; and such record shall be [...]own or read to him, or, if he does not understand [...]e language in which it is written, shall be inter[...]eted to him in a language which he understands, [...]d he shall be at liberty to explain or add to his [...]swers.

[...]xamination of ac[...] [...]ed how recorded.

(2) When the whole is made conformable to what [...]r declares is the truth, the record shall be signed [...] the accused and the Magistrate or Judge of such [...]urt, and such Magistrate or Judge shall certify [...]der his own hand that the examination was taken [...] his presence and hearing, and that the record con[...]ins a full and true account of the statement made [...] the accused.

(3) In cases in which the examination of the ac[...]used is not recorded by the Magistrate or Judge [...] [...]e is a Presidency [...]ceeds, to make a [...]age of the Court, [...] acquainted with [...]e latter language; and such memorandum shall be

written and signed by the Magistrate or Judg his own hand, and shall be annexed to the reco the Magistrate or Judge is unable to make morandum as above required, he shall recor reason of such inability.

(4) Nothing in this section shall be deem apply to the examination of an accused person section 263.

Record of evidence in High Court

365. Every High Court established by I Charter the Chief Court of Panjab and the Chief Cou Lower Burma may, from time to time, by ge rule, prescribe the manner in which evidence be taken down in cases coming before the Court, the Judges of such Court shall take down the dence or the substance thereof in accordance with rule (if any) so prescribed.

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering Judgment

366. (1) The judgment in every trial in an Criminal Court of original jur diction shall be pronounced, the substance of such judgment shall be explained—

(a) in open Court either immediately after th [illegible] of the trial or at some subse[illegible] be give[illegible] and

(b) in the language of the Court, or in some oth language which the accused or his plead understands :

Provided that the whole judgment shall be read out by the presiding Judge if he is requested so do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought p, or, if not in custody, be required by the Court attend, [illegible] is persor [illegible] spensed [illegible] he is [illegible] delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal ourt shall be deemed to be invalid by reason only f the absence of any party or his pleader on the ay or from the place notified for the delivery there-f, or of any omission to serve, or defect in serving, n the parties or their pleaders, or any of them, the otice of such day and place.

(4) Nothing in this section shall be construed to mit in any way the extent of the provisions of sec-on 537.

Language of judg-ment

Contents of judg-ment.

367. (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon, and the reasons or the decision; and shall be dated and signed by he presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, nd the section of the Indian Penal Code or other aw under which, the accused is convicted, and the unishment to which he is sentenced.

Judgment in alter-native

(3) When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or

under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall s the offence of which the accused is acquitted direct that he be set at liberty.

(5) If the accused is convicted of an offence p ishable with death, and the Court sentences hin any punishment other than death, the Court shal its judgment state the reason why sentence of de was not passed :

Provided that, in trials by jury, the Court ne not write a judgment, but the Court of Sessions sh record the heads of the charge to the jury.

Sentence of death.

368. (1) When any person is sentenced to dea the sentence shall direct that be hanged by the neck till is dead.

Sentence of transportation

(2) No sentence of transportation shall specif the place to which the perso sentenced is to be transported

Court not to alter judgment.

369. No Court other than a High Court, when has signed its judgment, sha alter or review the same, excep as provided in sections 395 and 484, or to correct a lerical error.

Presidency Magistrate's judgment

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(a) the serial number of the case ;

(b) the date of the commission of the offence ;

(c) the name of the complainant (if any);

(d) the name of the accused person and (except in the case of an European British subject) his parentage and residence;

(e) the offence complained of or proved;

(f) the plea of the accused and his examination (if any);

(g) the final order;

(h) the date of such order; and

(i) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

py of judgment, to be given to ed on applica-

271. (1) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the rt, shall be given to him without delay. Such y shall, in any case other than a summons case, given free of cost.

(2) In trials by jury in a Court of Session, a copy he heads of the charge to the jury shall, on the lication of the accused, be given to him without ay and free of cost.

ise of person sen- ed to death.

(3) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the iod within which, if he wishes to appeal, his eal should be preferred.

under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed :

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Sessions shall record the heads of the charge to the jury.

Sentence of death.

368. (1) When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. No Court other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484, or to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(a) the serial number of the case;

(b) the date of the commission of the offence;

sors, and, unless the High Court otherwise ts, the presence of the convicted person may be nsed with when the same is made or taken.

3) When the inquiry and the evidence (if any) not made and taken by the High Court, the re- of such inquiry and the evidence shall be cer- l to such Court

76. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court —

'er of High Court ifirm sentence or conviction.

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person :

Provided that no order of confirmation shall be le under this section until the period allowed for 'erring an appeal has expired, or, if an appeal resented within such period, until such appeal isposed of.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when h Court consists of two or more Judges, be made, sed, and signed by at least two of them.

nfirmation or new ence to be signed vo Judges

178. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the

ocedure in case of rence of opinion.

372. The original judgment shall be filed the record of proceedings, where the original is rec in a different language from that of the Court the accused so requires, a translation thereof a language of the Court shall be added to suc cord.

Judgment when to be translated.

373. In cases tried by the Court of Session Court shall forward a co its finding and sentence any) to the District Magis within the local limits of w jurisdiction the trial was held.

Court of Session to send copy of finding and sentence to District Magistrate

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CON FIRMATION.

374. When the Court of Session passes tence of death, the proceed shall be submitted to the I Court, and the sentence not be executed unless it is confirmed by the I Court.

Sentence of death to be submitted by Court of Session.

375. (*1*) If when such proceedings are sub ted, the High Court thinks a further inquiry should be m into, or additional evidence ta upon, any point bearing u the guilt or innocence of the convicted perso may make such inquiry or take such evidence it or direct it to be made or taken by the Cour Session.

Power to direct further inquiry to be made or additional evidence to be taken.

(*2*) Such inquiry shall not be made, nor s such evidence be taken, in the presence of juror

:eiving the order of confirmation or other order
.e High Court thereon, cause such order to
:ried into effect by issuing a warrant, or taking
other steps as may be necessary.

32. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and if it thinks fit, commute the sentence to transtion for life.

ponement of ca- entence on preg- roman.

33. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthforward a warrant to the jail in which he is, or be, confined, and, unless the accused is already ned in such jail, shall forward him to such jail, the warrant.

ution of senten- transportation prisonment in :ases

84. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge .e jail, or other place in which the prisoner is, or be, confined.

ction of warrant ecution

385. When the prisoner is to be confined in a jail, the warrant . be lodged with the jailor.

ant with whom lodged.

86. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, a warrant for the levy of the amount by distress sale of any movable property belonging to the ider, although the sentence directs that, in default

rant for levy of

case, with their opinions thereon, shall be fore another Judge, and such Judge aft hearing as he thinks fit, shall deliver his and the judgment or order shall follow s nion.

Procedure in cases submitted to High Court for confirmation

379. In cases submitted by the Court sion to the High Court f confirmation of a sente death, the proper officer High Court shall, without after the order of confirmation or other ord been made by the High Court, send a copy order, under the seal of the High Court, and ed with his official signature, to the Court of sion

Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted Magistrate of the first cl a Sub-divisional Magistra provided by section 562, Magistrate may thereupon such sentence or make such order as he might h passed or made if the case had originally b heard by him, and, if he thinks further inquir additional evidence on any point to be nece he may make such inquiry or take such evide himself or direct such inquiry or evidence t made or taken.

CHAPTER XXVIII.

OF EXECUTION.

Execution of order passed under section 376.

381. When a sentence of death passed Court of Session is sub mi to the High Court for confir tion, such Court of Session sh

Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who ...he sentence, or by his successor in office.

' issue war-

When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as ...rt may direct.

...n of sentence ...g only.

(1) When the accused is sentenced to whipping in addition to imprisonment in a case which is ...

...ion of sen- whipping, in ...o imprison-

...ithin that time, until the sentence is con... by the Appellate Court; but the whipping ... the ex... ...peal, as ... order of

The whipping shall be inflicted in the pre... f the officer in charge of the jail, unless the ...r Magistrate orders it to be inflicted in his ...esence.

No accused person shall be sentenced to ...g in addition to imprisonment when the ...f imprisonment to which he is sentenced is ...n three months

... (1) In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light ratan not less than half an inch ...eter, in such mode, and on such part of the

...of inflicting ...nt.

of payment of the fine, the offender shall be prisoned.

387. Such warrant may be executed within local limits of the jurisdiction such Court, and it shall author the distress and sale of any such property with such limits, when endorsed by the District Magis or Chief Presidency Magistrate within the limits of whose jurisdiction such property is found

Effect of such warrant

388. (*1*) When an offender has been sentenced to fine only, and to imprisonment in default of payment the fine, and the Court issues warrant under section 386, it may suspend the execution of the sentence of imprisonment and release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time executing the bond; and in the event of the not having been realized, the Court may direct sentence of imprisonment to be carried into execution at once.

Suspension of execution of sentence of imprisonment

(*2*) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (*1*), and in default of his so doing, may at once pass sentence of imprisonment as if the money had not been recovered.

5. (1) In any case in which, under section
dure if pun- 394, a sentence of whipping is,
; cannot be in- wholly or partially, prevented
under section from being executed, the offender shall be kept in custody till 'ourt which passed the sentence can revise it ; he said Court may, at its discretion, either remit sentence, or sentence the offender in lieu of ping, or in lieu of so much of the sentence of ping as was not executed, to imprisonment for term not exceeding twelve months, which may addition to any other punishment to which he have been sentenced for the same offence.

?) Nothing in this section shall be deemed to rize any Court to inflict imprisonment for a exceeding that to which the accused is liable aw, or that which the said Court is competent flict.

96. (1) When sentence is passed under this
cution of sen- Code on an escaped convict,
on escaped such sentence, if of death, fine or
:ts. whipping, shall, subject to the isions hereinbefore contained, take effect immedly, and, if of imprisonment, penal servitude or sportation, shall take effect according to the wing rules, that is to say :—

(2) if the new sentence is severer in its kind the sentence which such convict was underg when he escaped, the new sentence shall take ct immediately,

(3) when the new sentence is not severer in its d than the sentence the convict was undergoing n he escaped, the new sentence shall take effect r he has suffered imprisonment, penal servitude, transportation, as the case may be, for a further

person, as the Local Government directs; and, case of a person under sixteen years of age, it be inflicted in such mode, and on such part person, and with such instrument as the Lo vernment directs.

Limit of number of stripes

(2) In no case shall punishment exceed thirty s

393. No sentence of whipping shall be exe by instalments: and none following persons shall be ishable with whipping (

Not to be executed by instalments.
Exemptions.

ly) :—

(a) females ;

(b) males sentenced to death, or to tra tation or to penal servitude, or t prisonment for more than five yea

(c) males whom the Court considers more than forty-five years of age

394. (1) The punishment of whipping sha be inflicted unless a m officer, if present, certi if there is not a medical o present, unless it appears to Magistrate or officer present, that the offender a fit state of health to undergo such punishment

Whipping not to be inflicted if offender not in fit state of health

(2) If, during the execution of a sente whipping, a medical officer tifies, or it appears to the gistrate or officer present, that the offender is n a fit state of health to undergo the remainder of sentence, the whipping shall be finally stopped

Stay of execution.

t to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of

onment, and the person undergoing the sentence fter its execution to undergo a further substan- sentence, or further substantive sentences, of imonment, transportation or penal servitude, effect ll not be given to the award of imprisonment in ault of payment of the fine until the person has lergone the further sentence or sentences.

Confinement of youthful offenders in reformatories

399. (1) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may ect that such person, instead of being imprisoned a criminal jail, shall be confined in any reformary established by the Local Government as a fit ce for confinement, in which there are means of table discipline and of training in some branch of ful industry, or which is kept by a person willing obey such rules as the Local Government presbes with regard to the discipline and training of sons confined therein

(2) All persons confined under this section shall subject to the rules so prescribed.

(3) This section shall not apply to any place in ich the Reformatory Schools Act, 1897, is for the ne being in force.

Return of warrant on execution of sentence.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an

period equal to that which, at the time of remained unexpired of his former sentenc

Explanation.—For the purposes of this

(*a*) a sentence of transportation or p tude shall be deemed severe sentence of imprisonment ;

(*b*) a sentence of imprisonment with confinement shall be deemed than a sentence of the same de of imprisonment without solita finement ; and

(*c*) a sentence of rigorous imprisonme be deemed severer than a sent simple imprisonment with or solitary confinement.

Sentence on offender already sentenced for another offence

397. When a person already undergoing tence of imprisonment, servitude or transportati sentenced to imprisonment servitude or transportation, such imprisonment, servitude or transportation shall commence a expiration of the imprisonment, penal servitu transportation to which he has been previously tenced ·

Provided that, if he is undergoing a sentence imprisonment, and the sentence on such subseq conviction is one of transportation, the Court m in its discretion, direct that the latter sentence s commence immediately, or at the expiration of imprisonment to which he has been previously s tenced.

Saving as to sections 396 and 397.

398. (*1*) Nothing in section 396 or section 3 shall be held to excuse any pe son from any part of the puni

ment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of ment of a fine is annexed to a substantive sentence imprisonment, or to a sentence of transportation or al servitude for an offence punishable with imsonment, and the person undergoing the sentence

ll not be given to the award of imprisonment in fault of payment of the fine until the person has dergone the further sentence or sentences

399. (1) When any person under the age of

onfinement of thful offenders in rmatories

rect that such person, instead of being imprisoned a criminal jail, shall be confined in any reformary established by the Local Government as a fit ace for confinement, in which there are means of itable discipline and of training in some branch of eful industry, or which is kept by a person willing obey such rules as the Local Government prescribes with regard to the discipline and training of rsons confined therein.

(2) All persons confined under this section shall

me being in force.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an

Return of warrant execution of sentence.

endorsement under his hand *certifying the ma*[illegible] in which the sentence has been *executed.*

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATI[illegible] OF SENTENCES.

Power to suspend or remit sentences

401. *(1)* When any person has been sentence[illegible] punishment for an offence, [illegible] Governor-General in Counci[illegible] the Local Government may at any time without [illegible]ditions or upon any conditions which the person s[illegible]tenced accepts, suspend the execution of his sente[illegible] or remit the whole or any part of the punishment [illegible] which he has been sentenced.

(2) Whenever an application is made to the [illegible]vernor-General in Council or the Local Governm[illegible] for the suspension or remission of a sentence, [illegible] Governor-General in Council or the Local Gove[illegible]ment, as the case may be, may require the presid[illegible] Judge of the Court, before or by which the conv[illegible]tion was had or confirmed, to state his opinion as [illegible] whether the application should be granted or refu[illegible] together with his reasons for such opinion.

[illegible] has be[illegible] [illegible]e Gove[illegible] [illegible]ernmer[illegible] [illegible]or-Gen[illegible]

as the case may be, not fulfilled, the Governor-Gen[illegible]ral in Council or the Local Government may can[illegible] the suspension or remission, and thereupon the pe[illegible]son in whose favour the sentence has been suspend[illegible] or remitted, may, if at large, be arrested by any po[illegible]lice-officer without warrant and remanded to under[illegible]go the unexpired *portion* of the sentence.

(4) The condition on which a sentence is sus-
nded or remitted under this section, may be one
be fulfilled by the person in whose favour the ser-
nce is suspended or remitted, or one independent of
s will.

(5) Nothing herein contained shall be deemed to
terfere with the right of Her Majesty to grant par-
ons, reprieves, respites or remissions, of punishment.

(6) The Governor-General in Council and the
[illegible]

resented and dealt with.

402. The Governor-General in Council or the Local Government may, without the consent of the person sen-
enced, commute any one of the following sentences or any other mentioned after it :—

Power to commute
inishment

death, transportation, penal servitude, rigorous
mprisonment for a term not exceeding that to which
ie might have been sentenced, simple imprisonment
or a like term, fine.

CHAPTER XXX.

Of Previous Acquittals or Convictions.

403. (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of suc offence shall, while such conviction or acquit-
[illegible] ried again
ts for any
from the
ade under

Person once convict-
d or acquitted not to
e tried for same of-
ence.

section 236, or for which he might have been victed under section 237.

(2) A person acquitted or convicted of any fence may be afterwards tried for any distinct off for which a separate charge might have been against him on the former trial under section sub-section (1).

(3) A person convicted of any offence consti ed by any act causing consequences which, toget with such act, constituted a different offence fr that of which he was convicted, may be afterwa tried for such last-mentioned offence, if the con quences had not happened, or were not known to t Court to have happened, at the time when he w convicted.

(4) A person acquitted or convicted of an offence constituted by any acts may, notwithstandin such acquittal or conviction, be subsequently charge with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried, was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provision of sections 26 of the General Clauses Act, 1897, or of section 188 of this Code.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(a) A is tried upon a charge of theft as a servant and acquitted He cannot afterwards, while the acquittal re-

nains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust

[illegible]

for, robbery

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the Court of Session and convicted of the culpable homicide of B A may not afterwards be tried on the same facts for the murder of B

[illegible]

paragraph 3 of the section

(f) A is charged by a Magistrate of the second class with and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts

(g) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.—OF APPEALS.

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a criminal Court except as provided for by this Code or by any other law for the time being in force.

405. Any person whose application under section 89 for the delivery of proper[ty] or the proceeds of the sale ther[e]of has been rejected by any Com[t] may appeal to the Court to whi[ch] appeals ordinarily lie from the sentences of the form[er] Court.

Appeal from order rejecting application for restoration of attached property.

406. Any person ordered by a Magistrate oth[er] than the District Magistrate or Presidency Magistrate, to giv[e] security for good behaviour und[er] section 118 may appeal to the District Magistrate.

Appeal from order requiring security for good behaviour.

407. (*1*) Any person convicted on a trial hel[d] by any Magistrate of the second or third class, or any person sentenced under section 349 by a Sub-divisional Magistrate of the second class, may appeal to the *District Magistrate*.

Appeal from sentence of Magistrate of the second or third class.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the *District* Magistrate, may be *transferred* to such subordinate Magistrate. The District Magistrate may *withdraw* from such Magistrate any appeal or class of appeals so presented or transferred.

Transfer of appeals to first-class Magistrate.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

49 by a Magistrate of the first class, may appeal to he Court of Session :

Provided as follows :—

(*a*) Any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session ;

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court ;

(*c*) when any person is convicted by a Magistrate of an offence under section 124 A of the Indian Penal Code, the appeal shall lie to the High Court.

Appeals to Court of Session how heard

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

Appeal from sentence of Court of Session

410. Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

[illegible] sentence of i[illegible] tra[illegible] in d[illegible] ntv[illegible] sentence of imprisonment has also been pas-ed.

No appeal from cer-

414. Notwithstanding anything hereinbefore contained, there shall be no appeal [illegible] convicted person in any case [illegible] which a Ma[illegible] 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two [illegible] punishments therein mentioned are [illegible] other-wis[illegible] merely on the ground that the person convicted [illegible] ordered to find security to keep the peace.

planation.—A sentence of imprisonment in of payment of fine is not a sentence by which more punishments are combined within the g of this section.

. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII. on European British subjects.

of sentences opean British

. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of tal passed by any Court other than a High

l on behalf of ent in case ttal

8. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in case the appeal shall lie on a matter of law only.

l on what matissible

' severity of a sentence section, be deemed to

19. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, very such petition shall (unless the Court to n it is presented otherwise directs) be accomd by a copy of the judgment or order appealed st, and in cases tried by a jury, a copy of the s of the charge recorded under section 367.

ion of appeal

20. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same o officer in charge of the jail, who shall there-

edure when apt in jail

ı sufficient ground for interfering, dismiss the ːal, or may,—

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty, and pass sentence on him according to law;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (3), with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order;

(d) make any amendment or any consequential or incidental order that may be just or proper.

(2) Nothing herein contained shall authorize ı Court to alter or reverse the verdict of a jury, less it is of opinion that such verdict is erroneous ·ing to a misdirection by the Judge, or to a misderstanding on the part of the jury of the law as d down by him.

424. The rules contained in Chapter XX\ to the judgment of a Cri Court of original jurisd shall apply, so far as m practicable, to the judgment of any Appellate other than a High Court :

Judgments of subordinate Appellate Courts

Provided that, unless the Apellate Court o wise directs, the accused shall not be brought required to attend, to hear judgment delivered

425 (1) Whenever a case is decided on a by the High Court under chapter, it shall certify its j ment or order to the Cour which the finding, sentence or order appealed ag was recorded or passed. If the finding, sentenc order was recorded or passed by a Magistrate o than the District Magistrate, the certificate sha sent through the District Magistrate.

Order by High Court on appeal to be certified to Lower Court

(2) The Court to which the High Court c fies its judgment or order shall thereupon make orders as are conformable to the judgment or or of the High Court; and, if necessary, the rec shall be amended in accordance therewith.

426 (1) Pending any appeal by a convicted p son, the Appellate Court m for reasons to be recorded by in writing, order that the ex cution of the sentence or ord appealed against be suspended and, also, if he is confinement, that he be released on bail or on h own bond.

Suspension of sentence pending appeal. Release of appellant on bail

(2) The power conferred by this section on t Appellate Court may be exercised also by the Hig

t in the case of any appeal by a convicted per-
o a Court subordinate thereto.

3) When the appellant is ultimately sentenced
imprisonment, penal servitude or transportation,
ime during which he is so released shall be ex-
ed in computing the term for which he is so sen-
ed.

427. [illegible]
est of ac[illegible]
l from [illegible]
d be a [illegible]
nate Court, and the Court before which he is
ght may commit him to prison pending the dis-
l of the appeal, or admit him to bail.

428. (1) In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its rea-
, and may either take such evidence itself, or
ct it to be taken by a Magistrate, or, when the
ellate Court is a High Court, by a Court of Ses-
or a Magistrate.

pellate Court may further evidence ect it to be taken

(2) When the additional evidence is taken by
Court of Session or the Magistrate, it or he shall
ify such evidence to the Appellate Court, and
Court shall thereupon proceed to dispose of
appeal.

(3) Unless the Appellate Court otherwise di-
[illegible]

(4) The taking of evidence under this section
l be subject to the provisions of Chapter XXV.
f it were an inquiry.

be sent to the Magistrate by whom the reference s made, who shall dispose of the case conformably the said order.

hrection as to costs.

(2) The High Court may direct by whom the costs of such ference shall be paid.

Power to reserve estions arising in ginal jurisdiction of gh Court.

434. (1) When any person has in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, en convicted of an offence, the Judge, if he thinks t, may reserve and refer for the decision of a Court onsisting of two or more Judges of such Court any uestion ot law which has arisen in the course of the rial of such person, and the determination of which ould affect the event of the trial.

Procedure when uestion reserved

(2) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded o jail, or, if the Judge thinks fit, be admitted to bail; nd the High Court shall have power to review the ase, or such part of it as may be necessary, and fi-

Power to call for records of inferior Courts

435. (1) The [illegible] powered by the L[illegible] may call for and examine the record of any proceeding, before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the

(b) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Power to order inquiry.

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct he District Magistrate by himself or by any of the fagistrates subordinate to him to make, and the)istrict Magistrate may himself make, or direct ny subordinate Magistrate to make, further inquiry nto any complaint which has been dismissed under ection 203 or sub-section (3) of section 204, or into he case of any accused person who has been discharged.

Report to High ourt.

438. (1) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or therwise the record of any proceeding, report for 1e orders of the High Court the result of such examination, and, when such report contains a re- ommendation that a sentence be reversed or altered, ay order that the execution of such sentence be spended, and, if the accused is in confinement, at he be released on bail or on his own bond.

(2) An Additional Sessions Judge shall ...

High Court's powers of revision.

439. (1) In the case of any proceeding the record of which has been called for by itself or which has been ported for orders, or which otherwise comes to

its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion the case shall be disposed of in manner provided by section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an order made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(5) Where, under this Code, an appeal lies, and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision :

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either

personally or by pleader, and that nothing in this section shall be deemed to affect section 439, subsection (2)

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

442. When a case is revised under this chapter by the High Court, it shall in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

High Court's order to be certified to lower Court or Magistrate.

PART VIII.—SPECIAL PROCEEDINGS

CHAPTER XXXIII.

Criminal Proceedings against Europeans and Americans.

443. No Magistrate unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first

Magistrates who may inquire into and try charges against European British subjects.

class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions Judge to be an European British subject.

Assistant Sessions Judge to have held office for three years and to be *specially empowered*.

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, is an Assistant Sessions J unless he has held the offi Assistant Sessions Judge f least three years and has been specially empow in this behalf by the Local Government.

Cognizance of offence committed by European British subject

445. Nothing in section 443 or section shall prevent any Magist from taking cognizance of offence committed by any E pean British subject in any in which he could take cognizance of a like offe if committed by another person:

Provided that, if he issues any process for purpose of compelling the appearance of an Eu pean British subject accused of an offence, su process shall be made returnable before a Magi trate having jurisdiction to inquire into or try t case.

Sentences which may be passed by provincial Magistrates.

446. Notwithstanding anything contained section 32 or section 34, no Ma gistrate other than a *Distric* Magistrate or Presidency Ma gistrate shall pass any sentence on an *European British* subject other than imprisonment for a term which may extend to three months, or fine which

may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both

When commitment is to be to Court of Session, and when to High Court.

447. (1) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

Trial of offences of which one is, and the others are not punishable with death or transportation for life

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life [illegible] ment, and the [illegible] not be tried for [illegible] or transportation, the High Court may nevertheless try him for the other offences.

Sentences which may be passed by Court of Session.

449. (1) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year or fine, or both.

(2) If at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to

Procedure when Sessions Judge finds his powers inadequate

proved, cannot be adequately punished by such sentence, he shall record his opinion to that eff and transfer the case to the High Court. S Judge may either himself bind over, or direct comt
and

4

before a High Court or Court Session, if, before the first ju is called and accepted, or t

Jury or assessors before High Court or Court of Session

first assessor is appointed, as the case may be, a such subject requires to be tried by a mixed ju the trial shall be by a *jury of which not less th* half the number shall be Europeans or Americans both Europeans and Americans.

(2) When any such trial before a Court of Se sion would in the ordinary course be with the aid assessors, the European British subject accused, o where there are several European British subject accused, all of them jointly, may, instead of claimin to be tried by a mixed jury under sub-section (1 require that not less than half the number of the assessors shall be Europeans or Americans or bo Europeans and Americans.

451. (1) In trials of European British subjec before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial

Right of European British subject to claim jury before District Magistrate

be by a jury composed in manner prescribed
:tion 450.

) If a claim is made under sub-section (1) in
nmons-case at the time when the Magistrate
eds under section 244 to hear the accused, or
warrant-case at the time when the Magistrate
upon the accused under section 256 to enter
the defence, the Magistrate shall forthwith
the necessary orders for the trial by a jury as
said.

) If such a claim is made at an earlier stage of
proceedings, the Magistrate shall issue such
s whenever it appears to him from the evidence
ded that there will be a sufficient case to go
e a jury.

f) In every such case the Magistrate shall, not-
standing anything contained in section 242,
e issuing any orders as aforesaid, frame a
al charge.

5) The provisions of sections 211, 216, 217, 219
220 shall, so far as may be, apply for the pur-
of securing the attendance of the complainant,
accused and the witnesses at every trial to be
under this section.

5) The provisions of this Code relating to the
edure in a trial by jury before a Court of Ses-
shall, as nearly as may be, apply to every trial
r this section as if the District Magistrate were
ssions Judge and the accused had been committed
s Court for trial

7) All Courts may construe any of the pro-

ie as it would have been had the European British ject been tried separately:

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the rson not being an European British subject requires that he shall be tried separately, the latter rson shall be tried separately in accordance with provisions of Chapter XXIII.

hen Nature may n separate trial.

453. (1) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for e purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, d allow the person making it a reasonable time ithin which to prove that it is true, and shall then ecide whether he is or is not an European British ibject, and shall deal with him accordingly. If any ich person is convicted by such Magistrate, and ppeals from such conviction, the burden of proving iat the Magistrate's said decision was wrong shall e upon him.

rocedure on claim person to be dealt h as European British subject.

(2) When any such person is committed by the lagistrate for trial before the Court of Session, and ich person, before such Court, claims to be dealt vith as an European British subject, such Court hall, after such further enquiry, if any, as it thinks it, decide whether he is or is not an European British sh subject, and shall deal with him accordingly. If ie is convicted by such Court, and appeals from such onviction, the burden of proving that the Court's aid decision was wrong shall lie upon him.

re he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining to bring him before the High Court to abide i further order as it may pass.

Procedure on such application.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or re- such application; or it may issue the order in first instance, and, when the person applying for brought before it, it may make such further order in the case as it thinks fit, after such inquiry any) as it thinks necessary.

Territories throughout which High Court may issue such orders

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and h other territories as the Governor-General in Council may direct.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session

459. (1) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor-General in Council, which confer on Magistrates or the Court of Session jurisdiction over offences, ll be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed

presiding in Court of Session, not being a Justice the Peace.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an Euro. British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims be Europeans or Americans.

Jury for trial of Europeans or Americans.

461. Whenever an European or American charged before the Court of Session jointly with a person not an European or American in compliance with a claim made under section 460, is tried by a jury, or with the aid of a set of assessors, of which at least half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

Jury when European or American charged jointly with one of another race

462. (1) When a trial is to be held before a Court of Session in which an accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450, or section 460, or before the Court of a District Magistrate or Sub-Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

Summoning and empanelling jurors under sections 450, 451, or 460

(2) The Court shall also, at the same time, and in like manner, cause to be summoned the same number of other persons named in the revised list as

umber of such other persons has been already ›ned for trials by jury at that Session.

From the whole number of persons returned ırors who are to constitute the jury shall be by lot in the manner prescribed in section ıntil a jury containing the proper number of eans or Americans, or a number approaching › as nearly as practicable, has been obtained :

ovided that, in any case in which the proper ›r of Europeans and Americans cannot other- ›e obtained, the Court may, in the discretion, › purpose of constituting the jury summon any ı excluded from the list on the ground of his exempted under section 320.

ı3 Criminal proceedings against European British subjects, European not being European British subjects, and Americans, before the Court of Session and High Court, except as otherwise expressly provided, be con- d according to the provisions of this Cohe.

uct of criminal ings against an British sub- ›c

CHAPTER XXXIV

LUNATICS.

54. (1) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound and consequently incapable of making his ce, the Magistrate shall inquire into the fact ıch unsoundness, and shall cause such person to

edure in case of ı being lunatic

district or ›vernment Surgeon

ourt shall report the case to the Local Government, emanding the accused to custody pending orders, nd the Local Government may order the accused to confined in a lunatic asylum, jail or other suitable ace of safe custody, and the Magistrate or Court hall give effect to such order.

467. (1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, s the case may be, may at any time resume the inuiry or trial, and require the accused to appear or e brought before such Magistrate or Court.

Resumption of inquiry or trial.

(2) When the accused has been released under ection 466, and the sureties for his appearance proluce him to the officer whom the Magistrate or Court ppoints in this behalf, the certificate of such officer hat the accused is capable of making his defence hall be receivable in evidence.

468 (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court consilers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate or Court

(2) If the Magistrate or Court considers the ccused person to be still incapable of making his defence, the Magistrate or Court shall again act ccording to the provisions of section 464 or section 465, as the case may be.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given be-

When accused appears to have been insane.

fore him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be kept in safe custody.

471. (*1*) Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would have constituted an offence for the inc[illegible] order suc[illegible] place and [illegible] fit and shall report the case for the orders of the Local Government.

(*2*) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

(3) The Governor-General in Council may, by general or special order, direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be remov- from the place where he is confined, to any luna- asylum, jail or other place of safe custody in ·tish India.

wer of Governor- ·ral in Council to · criminal lunatics ned by order of l Government to emoved from one ince to another

(4) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or y of the functions of the Inspector-General of isons under section 472, section 473 or section 474.

ower of Local Go- ment to relieve pector-General of ain functions

472. When any person is confined under the provisions of section 466 or section 471, the Inspector-General of Prisons, if such person is con- ed in a jail, or the visitors of the lunatic asylum, any two of them if he is confined in a lunatic asy- m, may visit him in order to ascertain his state of nd; and he shall be visited once at least in every : months by such Inspector-General or by two of ·h visitors as aforesaid; and such Inspector-Gene- l or visitors shall make a special report to the ocal Government as to the state of mind of such rson.

.unatic prisoners to visited by Inspect- General

473. If such person is confined under the provisions of section 466, and such Inspector-General or visitors shall certify that, in his or their opinion, such person is capable

Procedure where lu- ic prisoner is report- capable of making defence

of making his defence, he shall be taken before t
Ma gistrate or Court, as the case may be, at such ti
as the Magistrate or Court appoints and the M

ceivable as evidence.

474. *(1)* If such person is confined under
provisions of *section 466* or *sec*
tion 471, and such *Inspect*
General or *visitors shall cer*
that, in his or their *judgment*
may be discharged without da
ger of his doing injury to himself or to any other p
son, the *Local Government may thereupon order*
to be discharged, or to be detained in custody, or to
transferred to a public lunatic asylum if he has
been already sent to such an asylum, and, in cas
orders him to be transferred to an asylum, may a
point a commission, consisting of a judicial and
medical officers

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged

(2) Such commission shall make formal inq
into the state of *mind* of such *person*, taking
evidence as is necessary, and shall report to
Local *Government*, which may order his discha
or detention as it thinks fit.

475. *(1)* Whenever any *relative* or *friend* of
person confined under the p
visions of section 466 or sec
471 desires that he shall be delivered over to
care and custody, the Local Government, upon
application of such relative or friend, and c
giving security to the satisfaction of such Gov
ment that the person delivered shall be prop
taken care of and shall be prevented from doing

Delivery of lunatic to care of relative

r to himself or to any other person, may order h person to be delivered to such relative or nd.

(2) Whenever such person is so delivered, it ll be upon condition that he shall be produced the inspection of such officer and at such times the Local Government directs.

(3) The provisions of sections 472 and 474 shall, *tatis mutandis* apply to persons delivered under provisions of this section; and the certificate the inspecting officer appointed under this sec- n shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure in cases entioned in section 95.

476. (1) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 95 and committed before it or brought under its otice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that nay be necessary, may send the case for inquiry [illegible] st class, e suffi- Magis- rate; and may bind over any person to appear and give evidence on such inquiry or trial.

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorized under section 192 to transfer cases,

.VIII., and shall be deemed to have been held Magistrate.

79. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and record of the case to the Presidency Magistrate, rict Magistrate or other Magistrate authorized

:elure of Civil venue Court in ases.

he prosecution and defence.

80. (1) When any such offence as is described in section 175, section 178, section 179, section 180 or section of the Indian Penal Code, is committed in the or presence of any Civil, Criminal or Revenue rt, the Court may cause the offender whether he Européan British subject or not, to be deed in custody; and, at any time before the g of the Court on the same day may, if it

cedure in certain of contempt

onment for a term which may extend to one th, unless such fine be sooner paid

(2) Nothing in section 443 or section 444 shall leemed to apply to proceedings under this sec-

481. (1) In every such case the Court shall record the facts constituting the offence, with the statement (if) made by the offender, as well as the finding sentence.

ord in such cas-

(2) If the offence is under section 228 of t Indian Penal Code, the record shall show the n ture and stage of the judicial proceeding in whi the Court interrupted or insulted was sitting, a the nature of the interruption or insult.

Procedure where Court considers that case should not be

482. (1) If the Court in any case considers th a person accused of any of th offences referred to in sectio 480 and committed in its vie

Court is for any other reason of opinion th case should not be disposed of under section 48 such Court, after recording the facts constitut the offence and the statement of the accused a hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, an may require security to be given for the appearan of such accused person before such Magistrate, o if sufficient security is not given, shall forward suc person in custody to such Magistrate.

(2) The Magistrate to whom any case is fo warded under this section shall proceed to he the complaint against the accused person in mann hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so direct any Registrar or any Sub-Re gistrar appointed under the In dian Registration Act, 1877 shall be deemed to be a Civi Court within the meaning of sections 480 and 482.

484. When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Discharge of offender on submission or apology.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him, or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit [illegible] of the Court, for any [illegible] unless in the mean- [illegible] be examined and to [illegible] ument or thing In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Imprisonment or committal of person refusing to answer or produce document

486. (1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

Appeals from convictions in contempt cases.

ırt of Session or High Court from himself comting any case to such Court

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CHAPTER XXXVI.

F THE MAINTENANCE OF WIVES AND CHILDREN.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or

rder for mainten- of wives and chil- a.

n

ıg

te of the first class may, upon proof of such negt or refusal, order such person to make a monthly owance for the maintenance of his wife or such ıld, at such monthly rate, not exceeding fifty rupees the whole, as such Magistrate thinks fit, and to y the same to such person as the Magistrate from ne to time directs.

(2) Such allowance shall be payable from the te of the order, or if so ordered from the date of e application for maintenance

(3) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every each of the order, issue a warrant for levying the nount due in manner hereinbefore provided for vying fines, and may sentence such person, for the hole or any part of each month's allowance remaing unpaid after the execution of the warrant, to ıprisonment for a term which may extend to one ıonth or until payment if sooner made.

Enforcement of or-

Provided that, if such person offers to maintain is wife on condition of her living with him, and she

The accused may be proceeded against in strict where he resides or is, or where he last l with his wife, or, as the case may be, the r of the illegitimate child.

). On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, ered under the same section to pay a monthly nce to his wife or child, the Magistrate may [illegible] in the allowance as he thinks [illegible] the allowance the [illegible] in the whole be not [illegible]

tion in allow-

'0. A copy of the order of maintenance shall be given without payment to the person in whose favour it is or to his guardian, if any, or to the person to [illegible]

rcement of order of maintenance.

strate being satisfied as to the identity of the es and the non-payment of the allowance due.

CHAPTER XXXVII.

ECTIONS OF THE NATURE OF A HABEAS CORPUS.

er to issue directions of the nature of as corpus.

491. (1) Any of the High Courts of Judicature at Fort William, Madras and Bombay , whenever it thinks fit, direct—

(a) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as witness in any matter pending, or to be inquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any Commission from the Governor-General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(f) that the body of a defendant within such limits be brought in on the Sheriff's return of cepi corpus to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II. of 1819 or Bombay Regulation XXV. of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

RT IX.—SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

192. (1) The Governor-General in Council or the Local Government may appoint, generally, or in any case, or any specified class of cases, in any local area, or more officers to be called Public Prosecutors.

ower to appoint ic Prosecutors

(2) In any case committed for trial to the Court Session, the District Magistrate, or subject to the rol of the District Magistrate, the Sub-divisional gistrate, may, in the absence of the Public Prostor, or where no Public Prosecutor has been pointed, appoint any other person not being an er of police below the rank of Assistant District erintendent, to be Public Prosecutor for the pose of such case.

493 The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any son in any such case, the Public Prosecutor shall duct the prosecution and the pleader so instructshall act therein under his directions

'ublic Prosecutor plead in all ts in cases under charge Pleaders itely instructed to der his direction

494. Any Public Prosecutor appointed by the Governor-General in Council or the Local Government may, h the consent of the Court, in cases tried by jury ore the return of the verdict, and in other cases

ect of withdrawal prosecution

before the judgment is pronounced, withdraw the prosecution of any person ; and upon such drawal,—

(a) if it is made before a charge has framed, the accused shall be dischar

(b) if it is made after a charge has framed, or when under this Co charge is required, he shall be quitted.

Permission to conduct prosecution.

495. (1) Any Magistrate enquiring into or t ing any case may permit the p secution to be conducted by person other than an officer of police below a r to be prescribed by the Local Government in t behalf with the previous sanction of the Govern General in Council, but no person, other than t Advocate-General, Standing Counsel, Governm Solicitor, Public Prosecutor or other officer genera or specially empowered by the Local Governm in this behalf shall be entitled to do so without permission.

(2) Any such officer shall have the like p of withdrawing from the prosecution as is prov by section 494, and the provisions of that se shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution m do so personally or by a pleader.

(4) An officer of police shall not be permitted t conduct the prosecution if he has taken any part i the investigation into the offence with respect t which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

l96. When any person other than a person accused of a non-bailable offence is arrested or detained without

what cases bail taken.

rant by

ears or

ny time

ny stage of the proceedings before such Court ;ive bail, such person shall be released on bail:

Provided that such officer or Court, if he or it ıks fit, may, instead of taking bail from such son, discharge him on his executing a bond with- sureties for his appearance as hereinafter pro- ed.

497 (1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police- tion, or appears or is brought before a Court, he ıy be released on bail, but he shall not be so re- sed if there appear reasonable grounds for be- ving that he has been guilty of the offence of iich he is accused.

When bail may be in in case of non-able offence

(2) If it appears to such officer or Court at any ıge of the investigation, inquiry or trial, as the se may be, that there are not reasonable grounds r believing that the accused has committed such fence, but that there are sufficient grounds for rther inquiry into his guilt, the accused shall, nding such inquiry, be released on bail, or, at the scretion of such officer or Court, on the execution y him of a bond without sureties for his appearance s hereinafter provided.

(3) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested and may commit him to custody.

Power to direct admission to bail, or reduction of bail.

498. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties

499. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person and, when he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge from custody

500 (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer, on receipt of the order, shall release him.

Nothing in this section, section 496 or section
hall be deemed to require the release of any
liable to be detained for some matter other
hat in respect of which the bond was execut-

l. If, through mistake, fraud or otherwise,
insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest
ng that the person released on bail be brought
it and may order him to find sufficient sure-
ıd, on his failing so to do, may commit him
.

: to order suffi-
ıl when that
en is insuffi-

2. (*1*) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to dis-
e the bond, either wholly or so far as relates
applicants.

arge of sure-

) On such application being made, the Ma-
te shall issue his warrant of arrest directing
ıe person so released be brought before him.

) On the appearance of such person pursuant
) warrant, or on his voluntary surrender, the
trate shall direct the bond to be discharged
wholly or so far as relates to the applicants,
ıall call upon such person to find other suffi-
sureties; and, if he fails to do so, may commit
o custody.

CHAPTER XL

OF COMMISSIONS FOR THE EXAMINATION OF WI

When attendance of witness may be dispensed with.

503. (1) Whenever, in the course of an i a trial or any other proc under this Code, it appea Presidency Magistrate, a I Magistrate, a Court of Ses the High Court that the examination of a wit necessary for the ends of justice, and that the dance of such witness, cannot be procured w an amount of delay, expense or inconvenience under the circumstances of the case, would b reasonable, such Magis'ra Court may dispense with attendance, and may issue a mission to any District gistrate or Magistrate of the first class, within local limits of whose jurisdiction such witness re to take the evidence of such witness.

Issue of commission, and procedure thereunder.

(2) When the witness resides in the territ of any Prince or Chief in India in which the an officer representing the British Indian Gov ment, the commission may be issued to such cer.

(3) The Magistrate or officer to whom the c mission is issued, or, if he is the District Magis he or such Magistrate of the first class as he points in this behalf, shall proceed to the pl where the witness is or shall summon the wit before him, and shall take down his evidence in same manner, and may, for this purpose, exerc the same powers as in trials of warrant-cases und this Code.

4) Where the commission is issued to such offi-
as is mentioned in sub-section (2), he may
gate his powers and duties under the commis-
to any officer subordinate to him whose powers
not less than those of a Magistrate of the first
in British India.

504. (1) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

nmission in case of witness being within presidency town.

(2) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.

505. (1) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, shall examine the witness upon such interrogatories.

Parties may examine witnesses.

(2) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in
... oss-examine and re-exa-
... said witness

... course of an inquiry or
a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magis-

Power of Provincial subordinate Magistrate to apply for issue of commission.

trate, it appears that a commission ought to issued for the examination of a witness whose e dence is necessary for the ends of justice, and th the attendance of such witness cannot be procur without an amount of delay, expense or inconv nience which, under the circumstances of the ca would be unreasonable, such Magistrate shall ap to the District Magistrate, stating the reasons f the application; and the District Magistrate m either issue a commission in the manner hereinbe fore provided or reject the application.

Return of commission.

507. (*1*) After any commission issued under tion 503 or section 506 has duly executed, it shall be turned, together with the deposition of the wi examined thereunder, to the Court out of w it issued; and the commission, the return thereto the deposition shall be open at all reasonable t to inspection of the parties, and may, subject all just exceptions, be read in evidence in the c by either party, and shall form part of the recor

(*2*) Any deposition so taken, if it satisfies t conditions prescribed by section 33 of the In Evidence Act, 1872, may also be received in e dence at any subsequent stage of the case bef another Court.

Adjournment of inquiry or trial

508. In every case in which a commission i issued under section 503 or se tion 506, the inquiry, trial o other proceeding may be adjourned for a specifi time reasonably sufficient for the execution turn of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

)9. (1) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the nce of the accused, or taken on commission : Chapter XL, may be given in evidence in inquiry, trial or other proceeding under this , although the deponent is not called as a ess.

ısition of medi- ness.

?) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his depo- 1.

er to summon ıl witness

10. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Che- l Examiner to Government, upon any matter ıng duly submitted to him for examination or rsis and report in the course of any proceed- ınder this Code, may be used as evidence in inquiry, trial or other proceeding under this ı.

ɔrt of Chemical ıner.

11. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other ɔ provided by any law for the time being in ?,—

ıous conviction uittal how prov-

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order ; or

(b) in case of a conviction, either by a c cate signed by the officer in cl of the jail in which the punish. or any part thereof was inflicted by production of the warrant of c mitment under which the punishm was suffered;

together with, in each of such cases, evidence to the identify of the accused person with the p son so convicted or acquitted.

Record of evidence in absence of accused.

512. (1) If it is proved that an accused pers has absconded, and that there no immediate prospect of ar resting him, the Court competent to try or comm for trial such person for the offence complained of may, in his absence, examine the witnesses (if a produced on behalf of the prosecution, and rec their depositions. Any such deposition may, the arrest of such person, be given in eviden against him on the inquiry into, or trial for, th offence with which he is charged, if the depone is dead or incapable of giving evidence or h attendance cannot be procured without an amoun of delay, expense or inconvenience which, under th circumstances of the case, would be unreasonabl.

Record of evidence when offender unknown.

(2) If it appears that an offence punishable w death or transportation has be committed by some person o persons unknown, the Hi Court may direct that any Magistrate of the fi class shall hold an inquiry, and examine any wi nesses who can give evidence concerning the of fence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is d

incapable of giving evidence, or beyond the limits of British India.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

514. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the [illegible] which is- [illegible] and sale [illegible] person [illegible] District

Magistrate or Chief Presidency Magistrate withi local limits of whose jurisdiction such proper found.

(4) If such penalty is not paid, and cannot b covered by such attachment and sale, the perso bound shall be liable, by order of the Court w issued the warrant, to imprisonment in the civil for a term which may extend to six months.

(5) The Court may, at its discretion, remit portion of the penalty mentioned and enforce I ment in part only.

(6) Where a surety to a bond dies before bond is forfeited, his estate shall be discharged fr all liability in respect of the bond, but the party gave the bond may be required to find a new sur

Appeal from, and revision of, orders under section 514.

515. All orders passed under section 514 any Magistrate other than Presidency Magistrate or D trict Magistrate, shall be appe able to the District Magistrate, or, if not so appe ed, may be revised by him.

Power to direct levy of amount due on certain recognizance.

516. The High Court or Court of Session m direct any Magistrate to levy th amount due on a bond to a pear and attend at such Hi Court or Court of Session.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

Order for disposal of property regarding which offence committed.

517. (1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order a it thinks fit for the disposal of any property or document pro

duced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) When a High Court or a Court of Session makes such order and cannot, through its own officers, conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock, or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

Explanation —In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Sub-divisional magistrate

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned

Payment to innocent purchaser of money found on accused.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any

other person has bought the stolen property f
him without knowing, or having reason to bel
that the same was stolen, and that any money
on his arrest been taken out of the possession of
convicted person, the Court may, on the applica
of such purchaser and on the restitution of the st
property to the person entitled to the possession th
of, order that, out of such money, a sum not exc
ing the price paid by such purchaser be delivered
him.

520. Any Cour ... -fication re

Stay of order under section 517, 518 or 519. 518 or section 51...

Court subordinate thereto, to be stayed pending c
sideration by the former Court, and may modi
alter or annul such order, and make any furth
orders that may be just.

521. (1) On a conviction under the Indian Pe

Destruction of libellous and other matter. Code, section 292, section 2... section 501 or section 502, t

Court may order the destruction of all the copies
... ...hich the conviction was ta
... remai
... victed

(2) The Court may, in like manner, on a convic
... section 272, ...
...rder the de...
in respect of
...stroyed.

which the conviction was had ...

522. (1) Whenever a person is convicted of an

Power to restore possession of immovable property. offence attended by criminal force
and it appears to the Court that
by such force any person has

been dispossessed of any immovable property, the

Court may, if it thinks fit, order such person to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

Procedure by police pon seizure of property taken under section 51, or stolen.

523. (1) The siezure by any police-officer of property under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, repecting the custody and production of such property.

Procedure where owner of property seized unknown

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which [illegible] person, who [illegible] before him [illegible] ths from the date of such proclamation.

Procedure where no claimant appears within six months

524. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the

Government, and may be sold under the order the Presidency Magistrate, District Magistrat Sub-divisional Magistrate, or of a Magistrate of first class empowered by the Local Governmen this behalf.

(2) In the case of every order passed under section, an appeal shall lie to the Court to wh appeals against sentences of the Court passing order would lie.

Power to sell perishable property.

525. If the person entitled to the possession such property is unknown absent, and the property is su ject to speedy and natural decay, or the Magistra to whom its seizure is reported is of opinion that sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold, and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the net pro ceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES

High Court may transfer case or itself try it.

526. (1) Whenever it is made to appear to the High Court—

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual diffi culty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be

required for the satisfactory inquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses, or

(e) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

(i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but, in other respects competent to inquire into or try such offence ;

(ii) that any particular criminal case or appeal, or class of such cases or appeals be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction ;

(iii) that any particular criminal case or appeal be transferred to, and tried before, itself ; or

(iv) that an accused person be committed for trial to itself, or to a Court of Session.

(2) When the High Court withdraws for trial fore itself any case from any Court other than e Court of the Presidency Magistrate, it shall, cept as provided in section 267, observe in such ial the same procedure which that Court would ive observed if the case had not been so withrawn.

(3) The High Court may act either on the r of the Lower Court, or on the application of a interested, or on its own initiative.

(4) Every application for the exercise of power conferred by this section shall be m motion, which shall, except when the applica the Advocate-General, be supported by affida affirmation.

(5) When an accused person makes an ap tion under this section, the High Court may d him to execute a bond, with or without sure conditioned, that he will, if convicted, pay the c of the prosecutor.

(6) ... making any such

Notice to ...secutor of ...under this

copy of the grounds on which it is ..., and order shall be made on the merits of the applica unless at least twenty-four hours have elapsed b tween the giving of such notice and the hearing the application.

(7) Nothing in this section shall be deemed affect any order made under section 197.

Adjournment on application under this section.

(8) If, in any criminal case or appeal, before the commencement of the hear the Public Prosecutor, the co plainant or the accused notifie the Court before which the case or appeal is pend his intention to make an application under this se tion in respect of the case, the Court shall exercis the powers of postponement or adjournment give by section 344 in such a manner as will afford a reasonable time for the application being made and

order being obtained thereon, before the accused ...ailed on for his defence, or, in the case of an ...peal, before the hearing of the appeal.

527. (1) The Governor-General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High ...urt to another High Court, or from any Criminal ...urt subordinate to one High Court to any other ...iminal Court of equal or superior jurisdiction ...ordinate to another High Court, whenever it ...pears to him that such transfer will promote the ...ds of justice, or tend to the general convenience ... parties or witnesses.

...ower of Governor-...eral in Council to ...sfer criminal cases ... appeals

(2) The court to which such case or appeal is ...nsferred shall deal with the same as if it had ...en originally instituted in, or presented to, such ...urt.

528. (1) Any Chief Presidency Magistrate, Disrtrict Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he had made ...er to, any Magistrate subordinate to him, and ...y inquire into or try such case himself, or refer it ... inquiry or trial to any other such Magistrate ...mpetent to inquire into or try the same.

...ief Presidency, Dis-...t or Sub-divisional ...gistrate may with-...w or refer cases.

(2) The Local Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

...ower to authorize ...trict Magistrate to ...hdraw classes of ...es.

(3) A Magistrate making an order un section shall record in writing his reasons for the same.

(4) The head of a village under Madras tion IV. of 1821 is a Magistrate for the pur this section.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS

Irregularities which do not vitiate proceedings

529. If any Magistr empowered by law to do the following things, nam

(a) to issue a search-warrant under secti

(b) to order, under section 155, the po investigate an offence ;

(c) to hold an inquest under section 176 ;

(d) to issue process, under section 186, f apprehension of a person withi local limits of his jurisdiction wh committed an offence outside such li

(e) to take cognizance of an offence unde tion 190 sub-section (1), clause (clause (b) ;

(f) to transfer a case under section 192 ;

(g) to tender a pardon under section 33 section 338 ;

(h) to sell property under section 524 or tion 525 ; or

(i) to withdraw a case and try it himself un section 528 ;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

regularities which ...te proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

(a) attaches and sells property under section 88 ;

(b) issues a search-warrant for a letter, parcel or other thing in the post-office, or a telegram in the Telegraph Department;

(c) demands security to keep the peace ;

(d) demands security for good behaviour ;

(e) discharges a person lawfully bound to be of good behaviour ;

(f) cancels a bond to keep the peace;

(g) makes an order under section 133 as to a local nuisance ;

(h) prohibits, under section 143, the repitition or continuance of a public nuisance ;

(i) issues an order under section 144 ;

(j) makes an order under Chapter XII. ;

(k) takes cognizance, under section 190, sub-section (1), clause (c), of an offence ;

(l) passes a sentence, under section 349 on proceedings recorded by another Magistrate ;

(m) calls, under section 435, for proceedings ;

(n) makes an order for maintenance ;

(o) revises, under section 515, an order passed under section 514 ;

1 164 or section 364 is tendered or has been eived in evidence, finds that any of the provisions either of such sections have not been complied h by the Magistrate recording the statement, shall take evidence that such person duly made statement recorded; and, notwithstanding any-ng contained in the Indian Evidence Act, 1872, tion 91, such statement shall be admitted, if the or has not injured the accused as to his defence the merits.

(2) The provisions of this section apply to Courts appeal, reference and revision.

mission to ask ques- prescribed by sec- 454(2)

534. An omission to ask any person whether he is an European British subject, in a case to which sub-section (2) of section 454, ap-, shall not affect the validity of any proceeding.

ffect of omission to frame charge.

535. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no arge was framed, unless, in the opinion of the urt of appeal or revision, a failure of justice has fact been occasioned thereby.

(2) If the Court of appeal or revision thinks it a failure of justice has been occasioned by an ission to frame a charge, it shall order that a arge be framed, and that the trial be recommenced m the point immediately after the framing of the arge.

rial by jury of of- ce triable with as- ors.

536. (1) If an offence triable with the aid of assessors is tried by a jury, the trial shall on that ground only be invalid.

ction could and should have been raised at an ear-
ır stage in the proceedings.

Illustration.

A Magistrate being required by law to sign a document
irely an irregularity,
proceeding.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of dis-ss or other proceedings relating thereto.

Distress not illegal distrainer a trespasser for defect or ant of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court the Clerk of the Crown, or any Commissioner other person appointed by such Court for that rpose, or any Judge, or any Commissioner for king affidavits in any Court of Record in British dia, or any Commissioner to administer oaths in ngland or Ireland, or any Magistrate authorized to ke affidavits or affirmations in Scotland.

Courts and persons ore whom affidavits y be sworn.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine y person in attendance, though not summoned as witness, or recall and re-examine any person al-ady examined; and the Court shall summon and xamine or recall and re-examine any such person

Power to summon aterial witness, or exaine person present.

amed, to the Magistrate for examination.

(2) The officer so in charge, on receipt of such rder, shall act in accordance therewith, and shall rovide for the safe custody of the prisoner during is absence from the jail for the purpose aforesaid.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Interpreter to be bound to interpret truthfully.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor-General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

Expenses of complainants and witnesses.

545. (1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

Power of Court to pay expenses or compensation out of fine.

(a) in defraying expenses properly incurred in the prosecution;

tial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Apprehension of s persons

(2) Every [illegible] body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to police to seize property suspected to be stolen

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police

551. Police-offi[illegible] out the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or

Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

Power of other High Courts to make rules for other purposes.

(2) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(c) make rules for regulating its own practice and the practice and proceedings of all Criminal Courts subordinate to it; and

(d) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the local official Gazette.

Forms.

555. Subject to the power conferred by section 554, and by section 15 of the Indian High Courts Act, 1861, the forms set forth in the fifth schedule, with such variation as the circumstances of each case require,

ministered by such Government, other than the High Courts established by Royal Charter.

Powers of Governor-General in Council and Local Government exercisable from time to time

559. All powers conferred by this Code on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires.

Officer concerned in sales not to purchase or bid for property.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband

561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(b) commit the man for trial for the offence.

(2) [illegible] notwithstanding anything in this [illegible]

offence as is referred to in sub-section (1), no police-officer of rank below that of police-inspector shall be employed either to make, or to take part in the investigation.

First Offenders.

Power to Court to release upon probation of good conduct instead of sentencing to punishment.

562. In any cas[illegible]

[illegible] ing, or any other offence under the Indian Penal Code, punishable with not more than two

years' imprisonment before any Court, and no[illegible] vious conviction is proved against him, if it app[illegible] to the Court before whom he is so convicted, t[illegible] regard being had to the youth, character and ante[illegible] dents of the offender, to the trivial nature of the [illegible] fence, and to any extenuating circumstances un[illegible] which the offence was committed, it is expedient t[illegible] the offender be released on probation of good condu[illegible] the Court may, instead of sentencing him at once [illegible] any punishment, direct that he be released on [illegible] entering into a bond with or without sureties, [illegible] during such period (not exceeding one year) as t[illegible] Court may direct, to appear and receive senten[illegible] when called upon, and in the meantime to keep t[illegible] peace and be of good behaviour:

Provided that, where any first offender is convic[illegible] ed by a Magistrate of the third class, or a Magistrat[illegible] of the second class not specially empowered by th[illegible] Local Government in this behalf, and the Magistra[illegible] is of opinion that the powers conferred by this sec[illegible] tion should be exercised, he shall record his opinion [illegible] [illegible] ...ings to a Ma[illegible]

[illegible] forwarding the accused to [illegible] pearance before such Magistrate, who shall d[illegible] of the case in manner provided by section 380.

563. *(1)* If the Court which convicted the of[illegible] fender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

Provision in case of offender failing to observe conditions of his recognizances.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court

suing the warrant, and such Court may either re-
and him in custody until the case is heard or admit
m to bail with a sufficient surety conditioned on
s appearing for sentence . Such Court may, after
earing the case, pass sentence.

564. (1) The C

Conditions as to abode
offender.

r his surety (if any) has a fixed place of abode or
egular occupation in the place for which the Court
cts or in which the offender is likely to live during
he period named for the observance of the conditions.

(2) Nothing in this section or in sections 562 and
63 shall affect the provisions of section 31 of the
Reformatory Schools Act, 1897.

Previously-convicted Offenders.

565. (1) When any person, having been con-

Order for notifying
ddress of previously-
onvicted offender

with imprisonment for a term of three years or up-
wards, is again convicted of any offence punishable
under either of those chapters with imprisonment for
a term of three years or upwards by a High Court,
Court of Session, Presidency Magistrate, District
Magistrate, Sub-divisional Magistrate or any Magis-
trate of the first class specially empowered by the
Local Government in this behalf, such Court or Ma-
gistrate may, if it or he thinks fit, at the time of
passing sentence of transportation or imprisonment
is residence and any
be notified, as here-
exceeding five years
from the date of the expiration of such sentence.

(2) If such conviction is set aside on app otherwise, such order shall become void.

(3) The Local Government, with the pr sanction of the Governor-General in Council make rules to carry out the provisions of this s relating to the notification of residence by re convicts.

(4) Any person refusing or neglecting to co with any rule so made shall be punishable as had committed an offence under section 176 Indian Penal Code.

SCHEDULES:

I.—Enactments Repealed.

II.—Tabular Statements of Offences.

III.—Ordinary Powers of Provincial Magistrates.

IV.—Additional Powers with which Provincial Magistrates may be invested.

V.—Forms.

SCHEDULE I.

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title or subject.	Extent of repeal.
1875 ..	X.	High Courts' Criminal Procedure.	The whole.
1882 ..	X.	The Code of Criminal Procedure, 1882.	The whole
1884 ..	III.	The Criminal Procedure Code Amendment Act, 1884	The whole
1886 ...	X.	Amending the Code of Criminal Procedure, 1882, and certain other Acts	Sections 1 to 1[illegible] inclusive)
1887 ...	V.	Amending the Code of Criminal Procedure, 1882.	The whole.
"	XIV	The Indian Marine Act, 1887.	Section 78.
1889 ..	I	The Metal Tokens Act, 1889.	Section 7.
"	V.	Abolishing the Office of Coroner of Madras	Section 4, sub-sect (1)
"	XI.	The Lower Burma Courts Act, 1889.	So much of the [illegible] schedule as relates to the Code of Cr[illegible] ral Procedure, 18[illegible]
"	XIII.	The Cantonments Act, 1889.	So much of the sch[illegible] dule as relates to the Code of Cr[illegible] Procedure, 18[illegible]

SCHEDULE I—(*concluded*).

ENACTMENTS REPEALED—(*concluded*).

Year.	No.	Short title or subject	Extent of repeal.
1891 .	III.	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882	Section 9.
" .	IV.	Amending the Code of Criminal Procedure, 1882	The whole.
" ...	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882	Sections 2 and 3.
" ..	XII	The Repealing and Amending Act, 1891	So much as relates to the Code of Criminal Procedure, 1882.
1894 ...	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code	Sections 1 to 4 (both inclusive)
" ...	X	Amending the Code of Criminal Procedure, 1882.	The whole.
1895 .	IV	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882	The whole.
1896 ...	XIII	Amending the Code of Criminal Procedure, 1882	The whole.

SCH

TABULAR STA

Explanatory Note.—The entries in the second and seventh colu under the Indian Penal Code", are not intended as definitions of th tions of the Indian Penal Code, or even as abstracts of those s number of which is given in the first column

The third column of this schedule applies also to the police m

CHAPTER V.—

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise.	According as a warrant or summons may issue for the offence abetted.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto

ULE II.

ENT OF OFFENCES.

this schedule, headed respectively "Offence" and "Punishme
ences and punishments described in the several corresponding se
ons, but merely as references to the subject of the section, t

wns of Calcutta and Bombay.

BETMENT.

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Cou triable.
According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court which the o fence abette is triable.
Ditto ..	Ditto ...	Ditto	Ditto.

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whethe[r a] warrant o[r] summon[s] shall ord[in]arily iss[ue] in the firs[t] instance
11	Abetment of any offence, when one act is abetted, and a different act is done; subject to the proviso	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted
3	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto
	Abetment of any offence, if abettor is present when offence is committed.	Ditto .	Ditto
	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ..	Ditto
	If an act which causes harm be done in consequence of the abetment	Ditto ..	Ditto

ABETMENT—(continued)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence intended to be abetted	The Court by which the offence abetted is triable.
Ditto ...	*Ditto* .	The same punishment as for the offence committed.	*Ditto.*
Ditto .	Ditto .	Ditto ...	Ditto.
Not bailable	Ditto .	Imprisonment of either description for 7 years and fine	Ditto.
Ditto ...	Di to ...	Imprisonment of either description for 14 years and fine.	Ditto.

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whethe[r] warrant summ[ons] shall ... arily iss[ue] the ... instan[ce]
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	Accord[ing] a warra[nt] summo[ns] may ... for the o[f]fence a[bet]ted.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence	Ditto ..	Ditto
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto
	If the offence be not committed ...	Ditto	Ditto

...ETMENT—(*concluded*).

5	6	7	8
...Whether ...ilable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
...cording as ...he offence ...betted is ...ailable or ...ot.	According as the offence abetted is compoundable or not.	Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence, or fine, or both	The Court by which the offence abetted is triable
...itto	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both	Ditto.
...itto ..	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
...ot bailable	Ditto	Imprisonment of either description for 7 years, and fine	Ditto.
...itto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Wheth[illegible] warrant [illegible] shall [illegible] arily [illegible] in the [illegible]
119	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	Accord[illegible] a warr[illegible] summ[illegible] magist[illegible] the o[illegible] abetted
	If the offence be punishable with death or transportation for life.	Ditto ..	Ditto
	If the offence be not committed ...	Ditto ..	Ditto
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto .	Ditto
	If the offence be not committed . .	Ditto .	Ditto

TMENT—*(concluded).*

5	6	7	8
ether able or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
ording as offence etted is lable or	According as the offence abetted is compoundable or not	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both	The Court by which the offence abetted is triable.
bailable	Ditto	Imprisonment of either description for 10 years	Ditto.
ording as offence etted is ilable or t	Ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	Ditto.
to	Ditto	Ditto	Ditto.
to	Ditto	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both	Ditto.

CHAPTER VI.—OFF

1	2	3	
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whe warra sum shall and the f ins
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant	Warr
121A	Conspiring to commit certain offences against the State.	Ditto	Ditto
122	Collecting arms, &c, with the intention of waging war against the Queen.	Ditto	Ditto
123	Concealing with intent to facilitate, a design to wage war.	Ditto	Ditto
124	Assaulting Governor-General, Governor, &c, with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto

NST THE STATE.

5	6	7	8	
›ether ›able or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.	
bail›le.	Not compoundable.	Death or transportation for life, and forfeiture of property	Court of Session.	
›to ...	Ditto ..	Transportation for life or any shorter term, or imprisonment of either description for 10 years	Ditto.	...
›to ..	Ditto ..	Transportation for life or imprisonment of either description for 10 years, and forfeiture of property.	Ditto	...
›tto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.	...
›tto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto	...

...INST THE STATE—(*concluded*).

5	6	7	8
...Whether ...lable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable.
...bailable	Not compoundable.	Transportation for life or for any term and fine, or imprisonment of either description for three years and fine, or fine.	Court of Session, Chief Presidency Magistrate, or District Magistrate, or Magistrate of the first class specially empowered by the Local Government in that behalf.
...to	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine	Court of Session.
...to	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto
...itto ...	Ditto ...	Ditto	Ditto.

NST THE STATE—(*concluded*).

5	6	7	8
Vhether ilable or , not	Whether compund-able or not	Punishment under the Indian Penal Code	By what Court triable.
ot bailable	Not com-poundable	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Ses-sion.
ilable .	Ditto ...	Simple imprisonment for 3 years and fine	Court of Ses-sion, Presiden-cy Magistrate or Magistrate of the first class
ot bailable	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine	Court of Ses-sion

THE ARMY AND NAVY.

t bailable.	Not com-poundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Ses-sion.

CHAPTER VII.—OFFENCES REL

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whe… warra… summ… sha… ordinari… sue in th… instan…
132	Abetment of mutiny if mutiny is committed in consequence thereof	May arrest without warrant	Warran…
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office	Ditto	Ditto
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto
135	Abetment of the desertion of an officer, soldier or sailor	Ditto	Ditto
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons

HE ARMY AND NAVY—*(concluded.)*

5	6	7	8
ether able or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
bailable	Not compoundable	Death, or transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
to . .	Ditto ...	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
to ...	Ditto	Imprisonment of either description for 7 years and fine	Court of Session.
ilable ...	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class
tto ...	Ditto .	Ditto ...	Ditto
tto . .	Ditto ...	Fine of 500 rupees	Ditto.

CHAPTER VII.—OFFENCES RELAT[ING]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
138	Abetment of act of insubordination by an officer, soldier or sailor if the offence be committed in consequence	May arrest without warrant	Warrant
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons

CHAPTER VIII.—OFFENCES A[GAINST] T[HE]

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons	Ba[ilable]
144	Joining an unlawful assembly armed with any deadly weapon	Ditto	Warrant	Di[tto]
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Di[tto]
147	Rioting	Ditto	Ditto	Di[tto]

HE ARMY AND NAVY—(*concluded*)

5	6	7	8
hether lable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
ılable ...	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
tto ...	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate.

IE PUBLIC TRANQUILLITY.

ailable ..	Non-compoundable	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate.
Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.	Ditto.
Ditto ..	Ditto .	Ditto	Ditto.
Ditto ..	Ditto ...	Ditto	Ditto.

CHAPTER VIII.—OFFENCES AGAI[...]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Wheth[er] warrant or summons shall ordinarily [is]sue in the fi[rst] instance
148	Rioting, armed with a deadly weapon	May arrest without warrant.	Warrant
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence	According as arrest may be made without warrant for the offence or not	According a warr[ant] or sum[]mons ma[y] issue f[or] the offe[nce]
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According [to] the off[ence] committe[d] by the pe[r]son hire[d] engaged o[r] employe[d]
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons
152	Assaulting or obstructing public servant when suppressing riot, &c	Ditto	Warrant

PUBLIC TRANQUILLITY—(*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the India Penal Code	By what Court triable.
ailable ...	Non-compoundable.	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
ccording as the offence is bailable or not	Ditto ..	The same as for the offence.	The Court by which the offence is triable.
itto ..	Not compoundable	The same as for a member of such assembly and for any offence committed by any member of such assembly	Ditto.
ailable	Ditto	Imprisonment of either description for 6 months, or fine, or both	Any Magistrate.
itto ...	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first cl

CHAPTER VIII.—OFFENCES AG

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance
153	Wantonly giving provocation with intent to cause riot if rioting be committed.	May arrest without warrant	Warrant .
	If not committed	Ditto .	Summons .
153A	Promoting enmity between classes .	Shall not arrest without warrant	Warrant .
154	Owner or occupier of land not giving information of riot, &c.	Ditto .	Summons
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ..	Ditto .
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto .

PUBLIC TRANQUILLITY—*(concluded.)*

5	6	7	8
Whether ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
ailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
itto ...	Ditto .	Imprisonment of either description for 6 months, or fine, or both	Ditto
ot bailable	Ditto .	Imprisonment of either description for 2 years or fine, or both	Presidency Magistrate, or Magistrate of the first class
ailable ...	Ditto ..	Fine of 1,000 rupees ..	Presidency Magistrate, or Magistrate of the first or second class
itto ...	Ditto .	Fine	Ditto.
itto ...	Ditto ...	Ditto	Ditto.

. II.—STATEME

CHAPTER VIII.—OFFENCES AGA

2	3		4
OFFENCE	Whether the police may arrest without warrant or not	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
		May arrest without warrant	Warrant
...ring persons hired for an ...ful assembly.	May arrest without warrant.	Ditto ..	Summons
... hired to take part in an un...ful assembly or riot	Ditto ...	Shall not arrest without warrant	Warrant
...o go armed ...	Ditto ..	Sum...	Summons
...mmitting affray ...	Shall not arrest without warrant		Ditto

CHAPTER IX.—OFFENCES B

Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant	Summons

...IC TRANQUILLITY...LITY—(*concluded.*)

	6	7	8
	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
...	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
...	Ditto	Ditto	Ditto.
...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
..	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both	Any Magistrate

...G TO THE PUBLIC SERVANTS.

...	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class

CHAPTER IX.—OFFENCES BY OR BE

1	2	3	4
Section	OFFENCE	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Shall not arrest without warrant	Summons
163	Taking a gratification for the exercise of personal influence with a public servant	Ditto	Ditto
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself	Ditto	Ditto
165	Public servant obtaining any valuable thing without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto

TO PUBLIC SERVANTS—(*continued*).

5	6	7	8
Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
Bailable .	Not compoundable	[illegible]	[illegible] gistrate of the first class
Ditto	Ditto	Simple imprisonment for 1 year, or fine or both	Presidency Magistrate or Magistrate of the first class.
Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
Ditto ..	Ditto	Simple imprisonment for 1 year, or fine, or both	Ditto

CHAPTER VIII.—OFFENCES BY OR REL.

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
167	Public servant framing an incorrect document with intent to cause injury	Shall not arrest without warrant	Summons
168	Public servant unlawfully engaging in trade	Ditto ...	Ditto ...
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...
170	Personating a public servant ...	May arrest without warrant.	Warrant ...
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons

G TO PUBLIC SERVANTS—(*continued*).

5	6	7	8
Whether ailable or not	Whether. compoundable or not.	Punishment under the Indian Penal Code.	By what Court. triable
ailable ...	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Sssion, Presidency Magistrate or Magistrate of the first class
Ditto ..	Ditto	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first class
Ditto .	Ditoo	Simple imprisonment for 2 years, or fine or both. and confiscation of property, if purchsed	Ditto.
Ditto ...	Ditto	Imprisonment of either description for 2 years or fine, or both.	Any Magistrate.
Ditto .	Ditto	Imprisonment of either description for 3 months or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAW

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
172	Absconding to avoid service of summons or other proceedings from a public servant	Shall not arrest without warrant	Summons
	If summons or notice require attendance in person, &c, in a Court of Justice	Ditto	Ditto
173	Preventing the service or the affixing of any summons or notice or the removal of it when it has been affixed, or preventing a proclamation	Ditto	Ditto
	If summons, &c, require attendance in person, &c, in a Court of Justice	Ditto	Ditto
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority	Ditto	Ditto
	If the order require personal attendance, &c., in a Court of Justice	Ditto	Ditto

UTHORITY OF PUBLIC SERVANTS

5	6	7	8
Whether ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Bailable .	Not compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate
Ditto .	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto
Ditto .	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto
Ditto .	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Any Magistrate.
Ditto .	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAW

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
175—ctd	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant	Summons
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto
	If the notice or information required respects the commission of an offence, &c.	Ditto ...	Ditto
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto

ORITY OF PUBLIC SERVANTS—(*continued*).

5	6	7	8
ether able or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
able ..	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both	The Court in which the offence is committed, subject to the provisions of Chapter XXXV. or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class
tto .	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto
tto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees or both.	Presidency Magistrate or Magistrate of the first or second class
itto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	Ditto.
itto ..	Ditto ...	Ditto	Ditto.

CHAPTER X.—CONTEMPTS O

1	2	3	4	
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Wh warr sum shall arily in th insta	
	If the information required respects the commission of an offence, &c.	Shall not arrest without warrant.	Summo	
178	Refusing oath when duly required to take oath by a public servant	Ditto ...	Ditto	
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto	Di
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto	D

...THORITY OF PUBLIC SERVANTS—(*continued*).

5	6	7	8
...Whether ...ailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable.
...ailable ...	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
...itto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
...itto	Ditto ...	Ditto	Ditto.
...itto	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.

Chapter X.—Contempts of the Law

1	2	3	4	
Section.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	
181	Knowingly stating to a public servant on oath as true that which is false.	Shall not arrest without warrant	Warrant ..	
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Ditto ..	Summons ..	Dit
183	Resistance to the taking of property by the lawful authority of a public servant	Ditto ..	Ditto	Di
184	Obstructing sale of proprety offered for sale by authority of a public servant.	Ditto ..	Ditto ..	D
185	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby	Ditto ...	Ditto	Ditt

...UTHORITY OF PUBLIC SERVANTS—(*continued*).

5	6	7	8
Whether ...ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
Bailable .	Not compoundable	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto ..	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto ..	Ditto	Ditto	Ditto
Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both	Ditto.
Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAW[...]

1	2	3	4	
Section	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance	Wh[...] b[...]
186	Obstructing public servant in discharge of his public functions	Shall not arrest without warrant.	Summons	B[...]
187	Omission to assist public servant when bound by law to give such assistance	Ditto	Ditto	D[...]
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c	Ditto	Ditto	D[...]
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	Ditto	D[...]
	If such disobedience causes danger to human life, health or safety, &c	Ditto	Ditto	D[...]
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	D[...]

UTHORITY OF PUBLIC SERVANTS—(*continued*).

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Bailable ...	Not compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto ..	Ditto	Simple imprisonment for 1 month or fine of 200 rupees, or both	Ditto. ...
Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 500 rupees, or both	Ditto ...
Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both	Ditto
Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto ...
Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto ...

CHAPTER X.—CONTEMPTS OF THE LAW

1	2	3	4	5
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance.	Whe... ba... or n...
190	Threatening any person to induce him to refrain from making a legal application for protection from injury	Shall not arrest without warrant	Summons	Bail...

CHAPTER XI.— FALSE EVIDENCE A...

1	2	3	4	5
193	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant	Bail...
	Giving or fabricating false evidence in any other case	Ditto	Ditto	D...
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not b...
	If innocent person be thereby convicted and executed.	Ditto	Ditto	Dit...

THORITY OF PUBLIC SERVANTS—(*concluded*).

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
ailable ..	Not compoundable	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class

FENCES AGAINST PUBLIC JUSTICE.

ailable .	Not compoundable	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
itto ..	Ditto	Imprisonment of either description for 3 years, and fine	Ditto
ot bailable.	Ditto	Transportation for life or rigorous imprisonment for 10 years and fine	Court of Session.
itto ..	Ditto	Death or as above .	Ditto.

CHAPTER XI.—FALSE EVIDENCE

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance
	Using as true any such declaration known to be false	Shall not arrest without warrant.	Warrant
200	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence	Ditto ..	Ditto
201	If punishable with transportation for life or imprisonment for 10 years	Ditto .	Ditto
	If punishable with less than 10 years' imprisonment.	Ditto .	Ditto
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons

ENCES AGAINST PUBLIC JUSTICE—(*continued*).

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
ailable .	Not compoundable	The same as for giving false evidence.	Court of Session, Presidency Magistrate, or Magistrate of the first class
itto .	Ditto	Imprisonment of either description for 7 years and fine	Court of Session.
itto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of first class, or Court by which the offence is triable.
Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or [illegible] class

CHAPTER XI.—FALSE EVIDENCE &

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
	Using as true any such declaration known to be false	Shall *not* arrest without warrant	Warrant -
200	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence	Ditto	Ditto -
201	If punishable with transportation for life or imprisonment for 10 years	Ditto	Ditto -
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto -
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons

CES AGAINST PUBLIC JUSTICE—(*continued*).

5	6	7	8
Whether ailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable.
ailable ..	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
itto .	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class
Ditto ..	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class
itto .	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
itto ..	Ditto	Ditto	Ditto

…ES AGAINST PUBLIC JUSTICE—(*continued*)

5	6	7	8
…ther …ble or …ot.	Whether compound-able or not	Punishment under the Indian Penal Code.	By what Court triable.
…ble …	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class
…o ..	Ditto .	Imprisonment of either description for 2 years and fine	Ditto.
…o ..	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto.
…o ..	Ditto	Ditto	Ditto.
…o	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.
…lo .	Ditto	Ditto	Court of Session.
…to ..	Ditto .	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDE[NCE]

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not	[illegible]
	If punishable with transportation for life, or with imprisonment for 10 years	May arrest without warrant	Warra[illegible]
	If punishable with imprisonment for 1 year, and not for 10 years	Ditto	Ditto
213	Taking gift, &c, to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto
	If punishable with transportation for life or with imprisonment for 10 years	Ditto	Ditto
	If with imprisonment for less than 10 years	Ditto	Ditto

...ES AGAINST PUBLIC JUSTICE—(*continued.*)

5	6	7	8
...ther ...ble or ...t.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
...ble ...	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
... ...	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
...o ..	Ditto	Imprisonment of either description for 7 years and fine	Court of Session.
...to .	Ditto ..	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
...to .	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both	Presidency Magistrate, or Magistrate of the first class, or Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital	Shall not arrest without warrant	Warrant
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto ..	Ditto
	If with imprisonment for less than 10 years.	Ditto .	Ditto
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ..	Ditto
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant	Ditto

[O]FFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5	6	7	8
[W]hether [b]ailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
[Ba]ilable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
[D]itto ...	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
[D]itto ..	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable
[D]itto .	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class.
[D]itto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENC

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Wheth warra sum sh ordinar sue in first ins
	If punishable with transportation for life or with imprisonment for for 10 years	May arrest without warrant	Warran
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto
216A	Harbouring robbers or dacoits.	Ditto ..	Ditto
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture	Shall not arrest without warrant	Summons
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto .	Warrant

[OFFE]NCES AGAINST PUBLIC JUSTICE—(*continued.*)

5	6	7	8
[W]hether [ba]ilable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
[B]ailable . .	Not compoundable.	Imprisonment of either description for 3 years, with or without fine	Court of Session, Presidency Magistrate or Magistrate of the first class
[D]itto ...	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable
Ditto	Ditto	Rigorous imprisonment for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Imprisonment of either description for 2 years or fine, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto ..	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

CHAPTER XI —FALSE EVIDENC

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whet warrant sam shall narily in th inst
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Shall not arrest without warrant.	Warr
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto .	Ditt
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital	Ditto .	Dit
	If punishable with transportation for life or imprisonment for 10 years.	Ditto ..	Dit
	If with imprisonment for less than 10 years.	Ditto .	Dit

FENCES AGAINST PUBLIC JUSTICE—(continued)

5	6	7	8
hether lable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
ilable .	Not compoundable	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
tto ...	Ditto	Ditto .	Ditto.
tto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine	Ditto.
tto ...	Ditto ..	Imprisonment of either description for 3 years, with or without fine	Court of Sesion, Presidency Magistrate or Magistrate of the first class.
itto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XI.—FALSE EVIDENCE AN[...]

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death	Shall not arrest without warrant.	Warrant
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards	Ditto	Ditto
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto	Ditto
223	Escape from confinement negligently suffered by a public servant	Ditto	Summons
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant

ENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
ot bailable	Not compoundable	Transportation for life, or imprisonment of either description for 14 years, with or without fine	Court of Session
itto.	Ditto	Imprisonment of either description for 7 years, with or without fine	Ditto
Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto ..	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both	Ditto.

CHAPTER XI.—FALSE EVIDENCE [illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	May arrest without warrant.	Warrant ..
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years	Ditto ..	Ditto ..
	If charged with a capital offence ..	Ditto ..	Ditto ..
	If the person is sentenced to transportation for life or to transportation, penal servitude or imprisonment for 10 years or upwards	Ditto	Ditto ..
	If under sentence of death. ..	Ditto ..	Ditto ..

FENCES AGAINST PUBLIC JUSTICE—(*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Bailable ..	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	*Presidency Magistrate* or Magistrate of the first or second class.
Not bailable	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto ..	Ditto	Imprisonment of either description for 7 years and fine	Court of Session.
Ditto .	Ditto	Ditto	Ditto
Ditto ...	Ditto ..	Transportation for life, or imprisonment of either description for *10 years*, and fine.	Ditto.

CHAPTER XI.—FALSE EVIDENCE

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in first instance
225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—		
	(a) in case of intentional omission or sufferance;	Shall not arrest without warrant	Warrant
	(b) in case of negligent omission or sufferance	Ditto .	Summons
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant	Warrant .
226	Unlawful return from transportation	Ditto .	Ditto .

[OFFEN]CES AGAINST PUBLIC JUSTICE—(*continued*).

5	6	7	8
[Wh]ether [baila]ble or [n]ot	Whether compound-able or not	Punishment under the Indian Penal Code.	By what Court triable
[Baila]ble	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
[Ditt]o ..	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
[Ditt]o	Ditto	Imprisonment of either description for 6 months, or fine, or both	Ditto.
[Not] bailable	Ditto	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation	Court of Session.

CHAPTER XI.—FALSE EVIDENCE

1	2	3	4
SECTION.	OFFENCES.	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance
227	Violation of condition of remission of punishment.	Shall not arrest without warrant	Summons
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	Ditto	Ditto
229	Personation of a juror or assessor.	Ditto	Ditto

CHAPTER XII.—OFFENCES RELATING T

231	Counterfeiting, or performing any part of the process of counterfeiting, coin	May arrest without warrant.	Warrant

ENCES AGAINST PUBLIC JUSTICE—(*concluded*).

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
t bailable	Not compoundable	Punishment of original sentence, or, if part of the punishment has been undergone, the residue	The Court by which the original offence was triable
ailable	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both	The Court in which the offence is committed, subject to the provisions of Chapter XXXV
tto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first class.

N AND GOVERNMENT STAMPS.

t bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session.

CHAPTER XII.—OFFENCES RELATI

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Wheth warrar summ shall c anly in the insta
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin	May arrest without warrant.	Warr
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	Ditt
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin	Ditto ...	Ditt
	If Queen's coin ..	Ditto	Dit
236	Abetting in British India the counterfeiting out of British India of coin	Ditto	Di

IN AND GOVERNMENT STAMPS—(*continued*).

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
Not bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session.
Ditto	Ditto .	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
Ditto	Ditto .	Imprisonment of either description for 7 years and fine	Court of Session.
Ditto .	Ditto .	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto ..	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
Ditto ..	Ditto .	The punishment provided for abetting the counterfeiting of such coin within British India	Ditto.

CHAPTER XII.—OFFENCES RELATIN[G]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
237	Import or export of counterfeit coin, knowing the same to be counterfeit	May arrest without warrant	Warrant
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto	Ditto
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c, the same to any person.	Ditto	Ditto
240	The same with respect to the Queen's coin	Ditto	Ditto
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit	Ditto	Ditto

IN AND GOVERNMENT STAMPS (*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
Not bailable	Not compoundable	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session
Ditto	Ditto	Imprisonment of either description for 5 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto
Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XII.—OFFENCES RELATIN

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Wheth warrant summ shall or arily is the f instan
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof	May arrest without warrant	Warra
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto
245	Unlawfully taking from a Mint any coining instrument	Ditto	Ditto
246	Fraudulently diminishing the weight or altering the composition of any coin	Ditto	Ditto
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditt

...IN AND GOVERNMENT STAMPS (*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Not bailable	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Imprisonment or either description for 7 years and fine	Ditto
Ditto	Ditto	Ditto	Court of Session.
Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Imprisonment of either description for 7 years and fine	Ditto

CHAPTER XII.—OFFENCES RELAT

1	2	3	
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Wheth warran sum shall c only i in the instan
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description	May arrest without warrant	Warra
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto .	Ditto
250	Delivery to another of coin possessed with the knowledge that it is altered	Ditto .	Ditto
251	Delivery of Queen's coin possessed with the knowledge that it is altered	Ditto .	Ditto
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ..	Ditto
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof	Ditto .	Ditto

…IN AND GOVERNMENT STAMPS (*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
…ot bailable	Not compoundable	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
…itto ..	Ditto	Imprisonment of either description for 7 years and fine	Ditto
…itto .	Ditto	Imprisonment of either description for 5 years and fine	Ditto.
Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto
Ditto	Ditto	*Imprisonment of either* description for 3 years and fine	Ditto
Ditto ..	Ditto .	Imprisonment of either description for 5 years and fine	Ditto

CHAPTER XII —OFFENCES RELATI

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Wheth warran summ shall or ordinar the fi instan
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant
255	Counterfeiting a Government stamp,	Ditto ..	Ditto
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp	Ditto	Ditto
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto .	Ditto
258	Sale of counterfeit Government stamp	Ditto	Ditto

CHAPTER XIII.—OFFENCES RELATI

259	Having possession of a counterfeit Government stamp.	May arrest without warrant	Warrant

...N AND GOVERNMENT STAMPS (*concluded.*)

5	6	7	8
...Whether ...ilable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
...t bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin	Presidency Magistrate or Magistrate of the first or second class
...ailable	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Court of Session
...itto .	Ditto	Imprisonment of either description for 7 years and fine	Ditto
...itto .	Ditto	Ditto	Ditto
...itto .	Ditto	Ditto	Ditto.

... WEIGHTS AND MEASURES.

Bailable	Not compoundable	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELAT

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
260	Using as genuine a Government stamp known to be counterfeit	May arrest without warrant	Warrant ...
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto ...	Ditto
262	Using a Government stamp known to have been before used	Ditto	Ditto
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto
263A	Fictitious stamps ...	Ditto	Ditto

VEIGHTS AND MEASURES.—(*continued*).

5	6	7	8
hether ilable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
ilable .	Not compoundable	[illegible]	[illegible] Magistrate of the first class
itto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Ditto
itto .	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class
itto .	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
itto ...	Ditto ...	Fine of 200 rupees .	Presidency Magistrate, or Magistrate of the first class

CHAPTER XIII.—OFFENCES RELA…

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whet… warrant… summ… shall… arily… in the f… instan…
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant	Summ…
265	Fraudulent use of false weight or measure.	Ditto	Ditto
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC H…

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Sum…
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life	Ditto	Ditto

WEIGHTS AND MEASURES.—(*concluded*).

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
ailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.
Ditto ...	Ditto ..	Ditto ..	Ditto.
Ditto ...	Ditto .	Ditto . ..	Ditto.
Ditto .	Ditto ..	Ditto .	Ditto

FETY, CONVENIENCE, DECENCY AND MORALS.

5	6	7	8
Bailable .	Not compoundable	Imprisonment of either description for 6 months, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class
Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEA[LTH]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
271	Knowingly disobeying any quarantine rules.	Shall not arrest without warrant.	Summons
272	*Adulterating* food or drink intended *for sale* so as to make the same noxious	Ditto	Ditto
273	Selling any food or drink as food and drink knowing the same to be noxious	Ditto	Ditto
274	*Adulterating* any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation	Ditto	Ditto
276	Knowingly selling or issuing from [illegible]	Ditto	Ditto

...ETY, CONVENIENCE, DECENCY AND MORALS—(*continued.*)

5	6	7	8
Whether ...ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
...ailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.
...itto ..	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
Ditto ...	Ditto .	Ditto	Ditto.
Ditto ..	Ditto .	Ditto	Ditto.
Ditto .	Ditto	Ditto	Ditto.
Ditto ...	Ditto ..	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
277	Defiling the water of a public spring or reservoir	May arrest without warrant	Summons
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c ...	May arrest without warrant.	Ditto
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto
281	Exhibition of a false light, mark or buoy.	Ditto ..	Warrant
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ..	Summons

...TY, CONVENIENCE, DECENCY AND MORALS—(*continued*).

5	6	7	8
...hether ...ilable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
...ilable ...	Not compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate
...tto ...	Ditto .	Fine of 500 rupees .	Ditto.
...tto ...	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
...tto ..	Ditto .	Ditto .	Presidency Magistrate or Magistrate of the first or second class.
...tto ...	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
...tto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate, or Magistrate of the first or second class.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEA[illegible]

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
283	*Causing danger, obstruction or injury in any public way or line of navigation.*	May arrest without warrant.	Summons
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant	Ditto
285	Dealing with fire or any combustible matter so as to endanger human life, &c	May arrest without warrant.	Ditto
286	So dealing with any explosive substance.	Ditto	Ditto
287	*So dealing* with any machinery.	Shall not arrest without warrant	Ditto
288	[illegible]	Ditto	Ditto

ETY, CONVENIENCE, DECENCY AND MORALS—(*continued*).

5	6	7	8
Whether ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Bailable ...	Not compoundable.	Fine of 200 rupees.	Presidency Magistrate or Magistrate of the first or second class
Ditto ...	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both	Ditto.
Ditto ..	Ditto .	Ditto	Any Magistrate.
Ditto ...	Ditto .	Ditto ...	Ditto
Ditto .	Ditto ..	Ditto	Presidency Magistrate, or Magistrate of the first or second class.
Ditto .	Ditto ...	Ditto	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HE[...]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whet[her a] warrant [or a] summ[ons] shal[l] ordinar[ily] issue in th[e first] instan[ce]
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant	Summ[ons]
290	Committing a public nuisance. ...	Shall not arrest without warrant.	Ditto
291	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Ditto
292	Sale, &c, of obscene books, &c.	Ditto	Warrant
293	Having in possession obscene books, &c., for sale or exhibition.	Ditto ..	Ditto
294	Obscene songs	Ditto ..	Ditto
294A	Keeping a lottery office ...	Shall not arrest without warrant.	Summons

[SA]FETY, CONVENIENCE, DECENCY AND MORALS—(*continued*).

5	6	7	8
Whether [b]ailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
[B]ailable ...	Not compoundable	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
Ditto ..	Ditto .	Fine of 200 rupees .	Ditto.
Ditto ...	Ditto ..	Simple imprisonment for 6 months, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class
Ditto	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto
Ditto ..	Ditto ..	Ditto	Ditto
Ditto ...	Ditto ...	Ditto	Ditto.
Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEAL[TH]

1 SECTION.	2 OFFENCE.	3 Whether the police may arrest without warrant or not	4 Whether a warrant or summons shall ordinarily issue in the first instance
	Publishing proposals relating to lotteries.	Shall not arrest without warrant	Summons

CHAPTER XV.—OFFE[NCES]

1	2	3	4
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons	May arrest without warrant	Summons
296	Causing a disturbance to an assembly engaged in religious worship	Ditto ...	Ditto
297	Trespassing in place of worship or *sepulture*, disturbing funeral, with intention to wound the feelings, or to insult the religion, of any person, or offering indignity to a human corpse.	Ditto ...	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling	Shall not arrest without warrant.	Ditto

ꞌTY, CONVENIENCE, DECENCY AND MARALS—(*concluded*).

5	6	7	8
ꞌhether lable or not	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
ilable ...	Not compoundable	Fine 1,000 rupees ...	Any Magistrate.

ꞌTING TO RELIGION.

ilable ...	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
tto ...	*Ditto* .	*Imprisonment of either* description for 1 year, or fine, or both	*Ditto.*
tto .	Ditto	Ditto .. .	Ditto.
tto	Compoundable.	Ditto .	Ditto

CHAPTER XVI.—OFF

Of Of

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
302	Murder ...	May arrest without warrant	Warrant
303	Murder by a person under sentence of transportation for life.	Ditto ..	Ditto
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ..	Ditto
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ..	Ditto
304A	Causing death by rash or negligent act	Ditto ...	Ditto
05	Abetment of suicide committed by a child or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto

...fecting the Human Body.

...ecting Life.

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
...ot bailable	Not compoundable.	Death or transportation for life, and fine	Court of Session.
...itto ...	Ditto ...	Death	Ditto.
...itto ...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
...itto ...	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto
Bailable .	Ditto ..	Imprisonment of either description for 2 years, or fine, or both	Court of Session, Presidency Magistrate, or Magistrate of the first class
...ot bailable	Ditto ...	Death or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.

CHAPTER XVI.—OFFENCES AFF[illegible]

Of Offences af[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance
306	Abetting the commission of suicide.	May arrest without warrant	Warrant
307	Attempt to murder	Ditto ..	Ditto
	If such act cause hurt to any person	Ditto ..	Ditto
	Attempt by life-convict to murder, if hurt is caused.	Ditto ...	Ditto
308	Attempt to commit culpable homicide	Ditto ..	Ditto
	If such act cause hurt to any person.	Ditto .	Ditto
309	Attempt to commit suicide ...	Ditto ..	Ditto
311	Being a thug	Ditto ..	Ditto

g THE HUMAN BODY—(*continued.*)

fe—(concluded.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the *Indian Penal Code*	By what Court triable.
Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine	Court of Session.
Ditto ...	Ditto	Ditto ..	Ditto.
Ditto ..	Ditto	Transportation for life, or as above	Ditto.
Ditto	Ditto	Death or as above	Ditto
Bailable ..	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
Ditto ..	Ditto	Imprisonment of either description for 7 years, or fine, or both	Ditto.
Ditto ...	Ditto .	Simple imprisonment for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
Not bailable.	Ditto ..	Transpartation for life and fine.	Court of Session.

CHAPTER XVI.—OFFENCES AFF[illegible]

Of the Causing of Miscarriage; of Injuries to Unborn Chil[illegible]

1	2	3	4	
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whe[illegible] warrant [illegible] sum[illegible] sha[illegible] ordina[illegible] sue in the [illegible] instance	[illegible]
312	Causing miscarriage	Shall not arrest without warrant.	Warrant	[illegible]
	If the woman be quick with child ..	Ditto ..	Ditto	[illegible]
313	Causing miscarriage without woman's consent.	Ditto ..	Ditto	[illegible]
314	Death caused by an act done with intent to cause miscarriage.	Ditto ..	Ditto	[illegible]
	If act done without woman's consent	Ditto ..	Ditto	[illegible]
	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	Ditto .	Ditto	[illegible]
	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ..	Ditto	[illegible]

THE HUMAN BODY—(*continued*).

e Exposure of Infants; and of the Concealment of Births.

5	6	7	8
Whether ...ilable or not	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
...ilable ..	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session
...tto	Ditto	Imprisonment of either description for 7 years and fine	Ditto
...t bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine	Ditto
...itto ..	Ditto	Imprisonment of either description for 10 years and fine	Ditto
...itto	Ditto	Transportation for life, or as above	Ditto
...itto	Ditto	Imprisonment of either description for 10 years, or fine, or both	Ditto
...itto ..	Ditto	Imprisonment of either description for 10 years and fine	Ditto

CHAPTER XVI.—OFFENCES AFF

Of I

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance.
325	Voluntarily causing grievous hurt	May arrest without warrant.	Summons
326	Voluntarily causing grievous hurt by dangerous weapons or means	Ditto	Ditto
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Ditto	Warrant
328	Administering stupefying drug with intent to cause hurt, &c	Ditto	Ditto

THE HUMAN BODY—(*continued*).

continued)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
ailable ...	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
t bailable	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
itto ...	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session
itto .	Ditto .	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFF

Of Hu

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	May arrest without warrant.	Warrant .
0	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c	Ditto .	Ditto
1	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto
	Voluntarily causing hurt to deter public servant from his duty.	Ditto .	Ditto
	Voluntarily causing grievous hurt to deter public servant from his duty	Ditto ..	Ditto

G THE HUMAN BODY—(*continued.*)

-(continued.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session
Bailable ..	Ditto	Imprisonment of either description for 7 years and fine	Ditto.
Not bailable	Ditto	Imprisonment of either description for 10 years and fine	Ditto
Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate, or Magistrate of the first class
Not bailable	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session

CHAPTER XVI.—OFFENCES AFF[illegible]

Of E[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons
335	Cau[illegible]	May arrest without warrant	Ditto
336	Doing any act which endangers human life or the personal safety of others	Ditto	Ditto
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto

G THE HUMAN BODY—(*continued*).

(continued)

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
Bailable	Compoundable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both	Any Magistrate.
Ditto	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 4 years, or fine, of 2,000 rupees, or both	Court of Session, Presidency Magistrate, or Magistrate of the first or second class
Ditto	Not compoundable	Imprisonment of either description for 3 months, or fine of 250 rupees, or both	Any Magistrate
Ditto	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 6 months, or fine of 500 rupees, or both	Presidency Magistrate, or Magistrate of the first or second class

Chapter XVI.—Offences Affe…

Of E…

1	2	3	4
Section.	OFFENCE	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
338	Causing grievous hurt by an act which endangers human life, &c	May arrest without warrant.	Summons

Of Wrongful Restraint…

1	2	3	4
341	Wrongfully restraining any person	May arrest without warrant	Summons
342	Wrongfully confining any person .	Ditto .	Ditto
343	Wrongfully confining for three or more days	Ditto .	Ditto

THE HUMAN BODY—(*continued.*)

(concluded.)

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
Bailable ...	Compoundable when permission is given by the Court before which a prosecution is pending	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both	Presidency Magistrate, or Magistrate of the first or second class

Wrongful Confinement.

Bailable	Compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both	Any Magistrate.
Ditto ..	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate, or Magistrate of the first or second class
Ditto ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XVI.—OFFENCES

Of Wrongful Restra

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not	Whet… warrant… summ… sha… ordinar… sue in t… first ins…
344	Wrongfully confining for ten or more days	May arrest without warrant	Summons
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant	Ditto
346	Wrongful confinement in secret ..	May arrest without warrant	Ditto
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c	Ditto	Ditto
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c	Ditto	Ditto

THE HUMAN BODY—(*continued.*)

...ongful Confinement—(concluded.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
Bailable ..	Not compoundable	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section	Ditto
Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Imprisonment of either description for 3 years and fine	Ditto
Ditto	Ditto	Ditto	Court of Session Presidency Magistrate or Magistrate of the first class

CHAPTER XVI.—OFFENCES AFF

Of Criminal F

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not.	Whethe warrant summo shall ordinar sue in th instan
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant	Summons
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ..	Ditto
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant
357	Assault or use of criminal force in attempt wrongfully to confine a person	Ditto ..	Ditto

THE HUMAN BODY—(*continued*).

Assault.

5	6	7	8
[W]hether [ba]ilable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
[Ba]ilable	Compoundable.	Imprisonment of either description for three months, or fine of 500 rupees, or both	Any Magistrate.
[D]itto	Not compoundable	Imprisonment of either description for 2 years, or fine or both	Presidency Magistrate or Magistrate of the first or second class
[D]itto	Ditto	Ditto	Ditto
[D]itto	Compoundable	Ditto	Ditto
[N]ot bailable	Not compoundable	Ditto	Any Magistrate
Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto

CHAPTER XVI.—OFFENCES AFF[illegible]

Of Criminal F

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
358	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons

Of Kidnapping, Abdu

1	2	3	4
363	Kidnapping .. .	May arrest without warrant	Warrant
364	Kidnapping or abducting in order to murder.	Ditto ..	Ditto
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c	Ditto .	Ditto

THE HUMAN BODY—(*continued.*)

Assault—(continued.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
Bailable ..	Compoundable.	Simple imprisonment for 1 month, or fine of 200 Rupees, or both.	Any Magistrate.

very and Forced Labour.

Not bailable	Not compoundable	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class
Ditto ..	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine	Court of Session.
Ditto	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.
Ditto .	Ditto	Imprisonment of either description for 10 years and fine	Court of Session.

CHAPTER XVI.—OFFENCES A…

Of Kidnapping, Abduction, S…

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whet… warr… sum… sh… ord… sue… first…
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	May arrest without warrant	Warr…
368	Concealing or keeping in confinement a kidnapped person.	Ditto ..	Ditt…
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto .	Ditt…
370	Buying or disposing of any person as a slave	Shall not arrest without warrant	Dit…
371	Habitual dealing in slaves ..	May arrest without warrant.	D…
372	Selling or letting to hire a minor for purposes of prostitution, &c	Ditto .	D…

THE HUMAN BODY—(*continued.*)

Forced Labour—(continued)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
Not bailable	Not compoundable	Imprisonment of either description for 10 years and fine.	Court of Session.
Ditto ..	Ditto .	Punishment for kidnapping or abduction	Ditto.
Ditto ..	Ditto .	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.
Bailable ..	Ditto	Ditto	Court of Session.
Not bailable	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
Ditto	Ditto	Imprisonment of either description for 10 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.

CHAPTER XVI.—OFFENCES AF

Of Kidnapping, Abduction, S

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Wh... warra... sum... shall... each... in the... insta...
373	Buying or obtaining possession of a minor for the same purposes.	May arrest without warrant	Warr...
374	Unlawful compulsory labour ...	Ditto	Ditt...

376	Rape— If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Su...
	In any other case	May arrest without warrant.	W...

THE HUMAN BODY—*(continued.)*

Forced Labour—(concluded.)

5	6.	7	8
hether llable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class.
ilable . .	Compoundable	Imprisonment of either description for 1 year, or fine, or both	Any Magistrate.

pe.

ilable ...	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
ot bailable.	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFF

Of Unn

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
377	Unnatural offences ..	May arrest without warrant.	Warrant

CHAPTER XVII.—OFFE

379	Theft ..	May arrest without warrant.	Warrant
380	Theft in a building, tent or vessel. .	Ditto	Ditto
381	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto

THE HUMAN BODY—(*concluded.*)

ces.

5	6	7	8
hether lable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class

NST PROPERTY.

ft

5	6	7	8
t bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Any Magistrate
tto ...	Ditto	Imprisonment of either description for 7 years and fine	Ditto
itto .	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class

CHAPTER XVII.—OFFE...

Of T...

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
382	Theft, preparation having been made for causing death or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it	May arrest without warrant	Warrant
384	Extortion	Shall not arrest without warrant	Warrant
385	Putting or attempting to put in fear of injury, in order to commit extortion	Ditto	Ditto
386	Extortion by putting a person in fear of death or grievous hurt	Ditto	Ditto
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto	Ditto

GAINST PROPERTY—(*continued*)

(concluded.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Not bailable	Not compoundable.	Rigorous imprisonment for 10 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
Extortion.			
Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
Ditto .	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto.
Not bailable.	Ditto .	Imprisonment of either description for 10 years and fine	Court of Session.
Ditto ..	Ditto ..	Imprisonment of either description for 7 years and fine	Ditto

CHAPTER XVII.—OFFENCE

Of Extort.

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.
388	. . . tion of	Shall not arrest without warrant.	Warrant
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion	Ditto ..	Ditto
	If the offence be an unnatural offence.	Ditto ..	Ditto

Of Robbery

392	Robbery	May arrest without warrant	Warrant
	If committed on the highway between sunset and sunrise	Ditto	Ditto

GAINST PROPERTY—(*continued.*)

—(concluded.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
Bailable ..	Not compoundable.	Imprisonment of either description for 10 years and fine	Court of Session.
Ditto ...	Ditto ..	Transportation for life	Ditto.
Ditto .	Ditto	Imprisonment of either description for 10 years and fine	Ditto.
Ditto .	Ditto	Transportation for life	Ditto

and Dacoity.

Not bailable	Not compoundable	Rigorous imprisonment for 10 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto .	Ditto .	Rigorous imprisonment for 14 years and fine	Ditto.

CHAPTER XVII.—OFFENC[…]

Of Robbery and […]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.
393	Attempt to commit robbery ...	May arrest without warrant.	Warrant
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto ..	Ditto
395	Dacoity	Ditto .	Ditto
396	Murder in dacoity	Ditto .	Ditto
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto
398	Attempt to commit robbery or dacoity when armed with deadly weapon	Ditto ...	Ditto
399	Making preparation to commit dacoity.	Ditto ..	Ditto

AGAINST PROPERTY—(*continued.*)

Dacoity—(continued.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Not bailable.	Not compoundable.	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrates or Magistrates of the first class
Ditto ...	Ditto .	Transportation for life or rigorous imprisonment for 10 years and fine.	Ditto.
Ditto ...	Ditto ..	Ditto .	Court of Session.
Ditto .	Ditto .	Death, transportation for life or rigorous imprisonment for 10 years and fine.	Ditto
Ditto ..	Ditto ..	Rigorous imprisonment for not less than 7 years	Ditto.
Ditto ...	Ditto	Ditto	Ditto.
Ditto .	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.

CHAPTER XVII.—OFFE

Of Robber

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not.	Wheth warran summ sha ordina sue in t insta
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	May arrest without warrant	Warra
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	Ditto ..	Ditto
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto .	Ditto

Of Criminal Mi

1	2	3	4
403	Dishonest misappropriation of moveable property, or converting it to one's own use	Shall not arrest without warrant.	Warr
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto

AINST PROPERTY—(*continued.*)

acoity—(concluded.)

5	6	7	8
Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Not bailable	Not compoundable	Transportation for life, or rigorous imprisonment for 10 years and fine	Court of Session.
Ditto	Ditto	Rigorous imprisonment for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Ditto	Ditto	Ditto	Court of Session.

priation of Property.

Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate.
Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class

CHAPTER XVII.—OFFES[illegible]

Of Criminal Mis[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or summ[illegible] shall ordinar[illegible] sue in the first instance
405	If by clerk or person employed by deceased.	Shall not arrest without warrant.	Warrant [illegible]

Of Crim[illegible]

1	2	3	4
406	Criminal breach of trust ...	May arrest without warrant	Warrant [illegible]
407	Criminal breach of trust by a carrier, wharfinger, &c	Ditto ..	Ditto
408	Criminal breach of trust by a clerk or servant.	Ditto ..	Ditto

AINST PROPERTY—(*continued.*)

iation of Property—(continued.)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Bailable ..	Not compoundable	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Breach of Trust.

5	6	7	8
Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
Ditto .	Ditto	Imprisonment of either description for 7 years, and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.
Ditto .	Ditto	Ditto . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVII.—OFF

Of Criminal B

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not	Whether warrant or summons shall ordinarily issue in the first instance
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	May arrest without warrant	Warrant

Of the Re

411	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant.	Warrant
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ..	Ditto
413	Habitually dealing in stolen property.	Ditto .	Ditto

AINST PROPERTY—(*continued*).

Trust—(continued.)

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Not bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

f Stolen Property.

5	6	7	8
Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
Ditto ..	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OFF

Of Criminal B

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c	May arrest without warrant	Warrant

Of the R

1	2	3	4
411	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant.	Warrant
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto
413	Habitually dealing in stolen property	Ditto .	Ditto

AINST PROPERTY—(*continued*).

Trust—(continued)

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.

Stolen Property.

Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
Ditto ..	Ditto .	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—O[illegible]

Of the Re[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	[illegible]
414	Assisting in concealment or disposal of stolen property knowing it to be stolen.	May arrest without warrant	Wa[illegible]
417	Cheating	Shall not arrest without warrant	Wa[illegible]
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ..	Di[illegible]
419	Cheating by personation ...	May arrest without warrant	D[illegible]

PROPERTY—(*continued.*)

Property—(continued.)

	6	7	8
...her ...e or ...	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
...lable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

...*g.*

...le ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.
...	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session Presidency Magistrate or Magistrate of the first or second class.
.	Ditto	Ditto	Ditto.

CHAPTER XVII.—OFFE

Of Che...

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security	May arrest without warrant.	Warrant
	Of Fraudulent De...		
421	Fraudulent removal or concealment of property, &c, to prevent distribution among creditors	Shall not arrest without warrant	Warrant
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto

...inst Property—(*continued.*)

...continued.)

5	6	7	8
...hether ...ilable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
...ilable	Not compoundable.	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class
...position of Property.			
...ilable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class
...tto ...	Ditto	Ditto	Ditto
...tto ..	Ditto ..	Ditto	Ditto.
...tto ..	Ditto	Ditto ...	Ditto.

CHAPTER XVII.—OFF[…]

Of Mis[…]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property	May arrest without warrant	Warrant
432	Mischief by causing inundation or obstruction to public drainage attended with damage	Ditto	Ditto
433	Mischief by destroying or moving or rendering less useful a light-house or seamark, or by exhibiting false rights	Ditto	Ditto
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant	Ditto
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees or upwards, or, in case or agricultural produce, 10 Rupees or upwards.	May arrest without warrant	Ditto

INST PROPERTY—(*continued*).

ontinued.)

5	6	7	8
Vhether ailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
ailable ..	Not compoundable	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
Ditto .	Ditto	Ditto ..	Ditto
Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
Ditto .	Ditto	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto	Ditto .	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first

CHAPTER XVII.—OFFENC

Of Mischi

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance
36	Mischief by fire or explosive substance with intent to destroy a house &c.	May arrest without warrant.	Warrant
7	Mischief with intent to destroy or make unsafe a decked vessel or a vessal of 20 tons burden.	Ditto ...	Ditto
8	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto
	Running vessel ashore with intent to commit theft, &c.	Ditto ..	Ditto
	Mischief committed after preparation made for causing death, or hurt, &c	Ditto ...	Ditto

AINST PROPERTY—(*continued*).

—(concluded)

5	6	7	8
Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
tto ..	Ditto .	Imprisonment of either description for 10 years and fine.	Ditto.
tto ..	Ditto .	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto
tto .	Ditto ..	Imprisonment of either description for 10 years and fine.	Ditto.
tto .	Ditto .	Imprisonment of either description for 5 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.

CHAPTER XVII.—Offe...

Of Cri...

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether ... warrant ... summ... shall ... arily ... the ... inst...
447	Criminal trespass	May arrest without warrant	Summ...
448	House-trespass	Ditto ..	Warra...
449	House-trespass in order to the commission of an offence punishable with death	Ditto	Ditto
450	House-trespass in order to the commission of an offence punishable with transportation for life	Ditto	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto
	If the offence is theft... ..	Ditto	

...AINST PROPERTY—(*continued*).

...*espass.*

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Bailable ..	Compoundable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
Ditto .	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both	Ditto
Not bailable	Not compoundable	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
Ditto ..	Ditto	Imprisonment of either description for 10 years and fine	Ditto.
Bailable	Ditto	Imprisonment of either description for 2 years and fine	Any Magistrate.
Not bailable	Ditto ..	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVII.—OFFE[illegible]

Of Criminal Tr[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whe[illegible] warra[illegible] sum[illegible] sha[illegible] ordinar[illegible] sum[illegible] first[illegible]
452	House-trespass, having made preparation for causing hurt, assault, &c	May arrest without warrant	Warra[illegible]
453	Lurking house-trespass or house-breaking.	Ditto ...	Ditto
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto
	If the offence is theft ...	Ditto ...	Ditto
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto

AINST PROPERTY—(*continued.*)

ontinued.)

5	6	7	8
Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first or second class
Ditto ..	Ditto	Imprisonment of either description for 2 years and fine	Presidency Magistrate, or Magistrate of the first or second class
Ditto	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class
Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto
Ditto .	Ditto	Ditto .	Court of Session, Presidency Magistrate, or Magistrate of the first class

CHAPTER XVII.—OFF

Of Criminal Tr

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whet warra sum shall ordin in th inst
456	Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warr
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment	Ditto	Ditt
	If the offence is theft	Ditto	Ditt
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	Ditt
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditt

...GAINST PROPERTY—(*continued*)

...—(continued)

5	6	7	8
Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Not bailable	Not compoundable	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
Ditto	Ditto	Imprisonment of either description for 5 years, and fine	Ditto
Ditto ..	Ditto	Imprisonment of either description for 14 years and fine	Ditto
Ditto .	Ditto	Ditto	Court of Session, Presidency Magistrate, or Magistrate of the first class
Ditto .	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session.

CHAPTER XVII.—OFFENC

Of Criminal Tresp

2	3	4
OFFENCE	Whether the police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in the first instance
Death or grievous hurt caused by one of several persons jointly concerned in house breaking by night, &c.	May arrest without warrant	Warrant
Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto
Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS

Forgery	Shall not arrest without warrant.	Warrant

…INST PROPERTY—(*continued.*)

…oncluded.)

5	6	7	8
…hether …lable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
…s bailable	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session.
…ilable .	Ditto	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
…to .	Ditto	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class

…TO TRADE OR PROPERTY MARKS.

…ilable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS

2	3	4
OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
Forgery of a record of a Court of Justice or of a Register of Births, &c, kept by a public servant.	Shall not arrest without warrant	Warrant
Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any *money*, &c.	Ditto ..	Ditto
When the valuable security is a promissory note of the Government of India	May arrest without warrant.	Ditto
Forgery for the purpose of cheating	Shall not arrest without warrant	Ditto
Forgery for the purpose of harming the *reputation of any person*, or knowing that it is likely to be used for that purpose	Ditto ..	Ditto
Using as genuine a *forged* document which is known to be forged.	Ditto ..	Ditto

ND TO TRADE OR PROPERTY MARKS—(*continued.*)

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Cour triable
ot bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session
itto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine	Ditto.
Ditto ..	Ditto ..	Ditto	Ditto
itto ...	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class
Bailable	Ditto	Imprisonment of either description for 3 years and fine	Ditto
Ditto	Ditto	Punishment for forgery of such document	Same Court as that by which the forgery is triable.

CHAPTER XVIII.—OFFENCES RELATING TO DOCU

1	2	3	4
SECTION	OFFENCE.	Whether the police may arrest without warrant or not	Whe[illegible] warra[illegible] sum[illegible] shall ord[illegible] arily iss[illegible] the fi[illegible] instan[illegible]
	If the document is one of the description mentioned in section 467 of the Indian Penal Code	Shall not arrest without warrant	Warrant
475	[illegible] Indian Penal Code, or possessing counterfeit-marked material	Ditto	Ditto
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit-marked material	Ditto ..	Ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c	Ditto ..	Ditto
477A	Falsification of accounts ..	Ditto ..	Ditto

TRADE OR PROPERTY MARKS—(*continued.*)

	6	7	8
...r	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable
...	Not compoundable.	Transportation for life, or imprisonment of either description for 7 years and fine	Court of Session
..	Ditto	Ditto ..	Ditto
...ble	Ditto	Imprisonment of either description for 7 years and fine	Ditto.
.	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine	Ditto
..	Ditto	Ditto	Ditto

CHAPTER XVIII.—OFFENCES RELATING TO DOCUM

Of Trad

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not.	Wh ther warrant or summ shall ordinar sue in the instanc
482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant	Warrant
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto
484	Count ... property	Ditto	Summons
85	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark	Ditto	Ditto
86	Knowingly selling goods marked with a counterfeit property or trade mark.	Ditto	Ditto

TO TRADE OR PROPERTY MARKS—(*continued.*)

perty Marks.

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
Bailable	Not compoundable	Imprisonment of either description for one year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto
Ditto	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both	Ditto
Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or seco[nd] class

CHAPTER XVIII.—OFFENCES RELATING TO DOCU…

Of Trade and Pr…

1	2	3	4
SECTION	OFFENCE	Whether the police may arrest without warrant or not	Whether warrant or summ… s… ordinar… sue in the fi… instance
487	*Fraudulently* making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c	Shall not arrest without warrant.	Summons
488	Making use of any such false mark	Ditto .	Ditto
489	*Removing*, destroying or defacing any property-mark with intent to cause injury	Ditto .	Ditto

Of Currency-…

9A	Counterfeiting currency-notes or bank notes.	May arrest without warrant	Warrant
B	Using as genuine forged or counterfeit currency-notes or bank-notes	Ditto ...	Ditto

...D TO TRADE OR PROPERTY MARKS—(*continued.*)

...*rks*—(concluded)

5	6	7	8
Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
Bailable ..	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
Ditto ..	Ditto	Ditto	Ditto.
Ditto .	Ditto	Imprisonment of either description for 1 year, or fine, or both	Presidency Magistrate or Magistrate of the first or second class
...*nd Bank-notes*			
Not bailable	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine	Court of Session.
Ditto .	Ditto	Ditto	Ditto.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUM

Of Currency-

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance
489C	Possession of forged or counterfeit currency-notes or bank-notes	May arrest without warrant	Warrant
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes	Ditto .	Ditto

CHAPTER XIX.—CRIM

90	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant	Summons
91	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so	Ditto .	Ditto

TO TRADE OR PROPERTY MARKS—(*concluded*).

Bank-notes.

5	6	7	8
hether ilable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
ilable .	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both	Court of Session.
t bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

EACH OF CONTRACTS OF SERVICE.

ailable ...	Compoundable	Imprisonment of either description for 1 month, or fine of 100 Rupees, or both	Presidency Magistrate, or Magistrate of the first or [illegible] class
itto .	Ditto .	Imprisonment of either description for [illegible] months or [illegible] of 200 Rupees [illegible]	Ditto

CHAPTER XIX.—CRIMINAL BREACH

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether warrant or a summons shall ordinarily issue in the first instance
492	Being bound by contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Shall not arrest without warrant.	Summons

CHAPTER XX.—OFF

493	A man by deceit causing a woman not lawfully married to him, to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant
494	Marrying again during the lifetime of a husband or wife	Ditto ..	Ditto
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ..	Ditto
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married	Ditto ...	Ditto

TRACTS OF SERVICE—(*continued.*)

5	6	7	8
bether lable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
lable ..	Compoundable	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both	Presidency Magistrate or Magistrate of the first or second class.
TING TO MARRIAGE.			
bailable	Not compoundable.	Imprisonment of either description for 10 years and fine	Court of Session.
lable ...	Ditto	Imprisonment of either description for 7 years and fine	Ditto.
bailable	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
lo	Ditto	Imprisonment of either description for 7 years and fine	Ditto.

CHAPTER XX.—OFFE[NCES]

1	2	3	4
SECTION.	OFFENCE	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.
497	Adultery	Shall not arrest without warrant	Warrant
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto

CHAPTER XX[I]

500	Defamation	Shall not arrest without warrant	Warrant
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	Ditto

...LING TO MARRIAGE—(*continued*)

5	6	7	8
...hether ...lable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
...lable .	Compoundable.	Imprisonment of either description for 5 years or fine, or both	Court of Session, Presidency Magistrate, or Magistrate of the first class.
...to	Ditto ..	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate, or Magistrate of the first or second class.

...FFAMATION.

5	6	7	8
...lable ...	Compoundable.	Simple *imprisonment* for 2 years, or fine, or both.	*Court of Session*, Presidency Magistrate, or Magistrate of the first class.
...to ..	Ditto ..	Ditto	Ditto
...to ...	Ditto ...	Ditto .. .	Ditto .

CHAPTER XXII.—CRIMINAL INTIMIDAT[illegible]

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Ditto ..	Ditto
506	Criminal intimidation ...	Ditto .	Ditto
	If threat be to cause death or grievous hurt, &c.	Ditto .	Ditto
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ..	Ditto
508	[illegible]ct caused by inducing a person to [illegible]elieve that he will be rendered an [illegible]ect of Divine displeasure. [illegible] te [illegible] ma	Ditto .	Ditto

...ULT AND ANNOYANCE.

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Bailable ..	Compoundable.	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate.
Not bailable	Not compoundable.	Ditto .	Presidency Magistrate or Magistrate of the first class.
Bailable ...	Compoundable.	Ditto .	Ditto.
Ditto ...	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
Ditto ...	Ditto ...	Imprisonment of either description for 2 years in addition to the punishment under above section	Ditto.
Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or class.

CHAPTER XXII.—CRIMINAL INTIMIDATION

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance
509	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Shall not arrest without warrant.	Warrant
510	Appearing in a public place, &c, in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto

CHAPTER XXIII.—ATTEMPTS

1	2	3	4
511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue

INSULT AND ANNOYANCE—(*continued*).

5	6	7	8
Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
Bailable ...	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
Ditto ..	Ditto .	Simple imprisonment for 24 hours, or fine of 10 Rupees, or both	Any Magistrate.

TO COMMIT OFFENCES.

According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both	The Court by which the offence attempted is triable

1	2	3	4
SECTION.	OFFENCE.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance
	If punishable with death, transportation or imprisonment for 7 years or upwards.	May arrest without warrant	Warrant.
	If punishable with imprisonment for 3 years and upwards but less than seven.	Ditto ...	Ditto
	If punishable with imprisonment for one year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons
	If punishable with imprisonment for less than one year, or with fine only.	Ditto ...	Ditto

OTHER LAWS.

5	6	7	8
Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
Not bailable.	Not compoundable.	..	Court of Session.
Ditto .. Except in cases under the Indian Arms Act, 1878, section 19, which shall be bailable	Ditto .		Court of Session, Presidency Magistrate or Magistrate of the first class
Bailable ...	Ditto .	..	Court of Session, Presidency Magistrate or Magistrate of the first or second class
Ditto ..	Ditto ..		Any Magistrate.

SCHEDULE III.—(*continued*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(*contd.*)

I.—Ordinary Powers of a Magistrate of the Third Class —(continued.)

(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 145

(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2).

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514

(19) Power to make order as to disposal of property, section 517.

(20) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155

(3) Power to postpone issue of process, section 202

(4) Power to order destruction of libellous and other matter, section 521.

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class

(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107

(5) Power to require security for good behaviour, section 109.

(6) Power to discharge sureties, section 126.

SCHEDULE III.—*(continued.)*

ORDINARY POWERS OF PROVINCIAL MAGISTRATES—*(contd.)*

III.—Ordinary Powers of a Magistrate of the First Class—(continued.)

(7) Power to make orders, &c., in possession cases, sections 145, 146 and 147.

(8) Power to commit for trial, section 206.

(9) Power to stop proceedings when no complainant, section 249

(10) Power to make orders of maintenance, sections 488 and 489

(11) Power to take evidence on commission, section 503

(12) Power to recover penalty on forfeited bond, section 514.

(13) Power to make order as to first offenders, section 562

IV.—Ordinary Powers of a Sub-divisional Magistrate.

(1) The ordinary powers of a Magistrate of the first class

(2) Power to direct warrants to landholders, section 78

(3) Power to require security for good behaviour, section 110

(4) Power to make orders as to local nuisances, section 133

(5) Power to make orders prohibiting repetitions of nuisance, section 143

(6) Power to make orders under section 144.

(7) Power to depute Subordinate Magistrate to make local inquiry section 148.

(8) Power to order police-investigation into cognizable case, section 156

(9) Power to receive report of Police-officer and pass order section 173

(10) Power to hold inquests, section 174.

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(12) Power to entertain complaints, section 190

SCHEDULE III.—(*continued.*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATS—(*contd*)

IV.—*Ordinary Powers of a Sub-divisional Magistrate*—(concld.

(13) Power to receive police-reports, section 190

(14) Power to entertain cases without complaint, section 190

(15) Power to transfer cases to a Subordinate Magistrate, section 192.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349

(17) Power to forward record of inferior Court to District Magistrate, section 435 (2)

(18) Power to sell property alleged or suspected to have been stolen, &c, section 524

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

(20) Power to order released convicts to notify residence, section 565.

V—*Ordinary Powers of a District Magistrate.*

(1) The ordinary powers of a Sub-divisional Magistrate.

(2) Power to require delivery of letters, telegrams, &c, section 95.

(3) Power to issue search-warrants for documents in custody of postal or telegraph authorities, section 96

(4) Power to require security for good behaviour in case of sedition, section 108

(5) Power to discharge persons bound to keep the peace or to be of good behaviour section, 124

(6) Power to cancel bond for keeping the peace, section 125.

(7) Power to try summarily, section 260

(8) Power to quash convictions in certain cases, section 350

(9) Power to hear appeals from orders requiring security for good behaviour section 406

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407

SCHEDULE III.—(*concluded.*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES—(*concluded.*)

V.—Ordinary Powers of a District Magistrate—(concluded.)

(11) Power to call for records, section 435

(12) Power to order commitment, section 436.

(13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437

(14) Power to report case to High Court, section 438

(15) Power to try European British subjects, section 443

(16) Power to sentence European British subject to more than three months imprisonment or one thousand Rupees fine, or both, section 446

(17) Power to appoint person to be public prosecutor in particular case, section 492 (2)

(18) Power to issue commission for examination of witness sections 503 506

(19) Power to hear appeals from or revise orders passed under section 514, section 515

(20) Power to compel restoration of abducted female, section 552

SCHEDULE IV.

(*See sections 37 and 38.*)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED	BY THE LOCAL GOVERNMENT	(1) Power to require security for good behaviour in case of sedition, section 108. (2) Power to require security for good behaviour, section 110 (3) Power to make orders as to local nuisances, section 133 (4) Power to make orders prohibiting repetitions of nuisances, section 143 (5) Power to make orders under section 144 (6) Power to hold inquests, section 174 (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 (8) Power to take cognizance of offences upon complaint, section 190 (9) Power to take cognizance of offences upon police-report, section 190 (10) Power to take cognizance of offences without complaint, section 190.

SCHEDULE IV.—(*continued.*)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRAT MAY BE INVESTED—(*continued.*)

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED—(*concld*).

BY THE LOCAL GOVERNMENT—*ctd.*

(11) Power to try summar section 260

(12) Power to hear appe from convictions Magistrates of the cond and third clas section 407.

(13) Power to sell proper alleged or suspected have been stolen, & section 524

(14) Power to order release convicts to notify res dence, section 565

(15) Power to try cases unde section 124A of the Indian Penal Code

BY THE DISTRICT MAGISTRATE.

(1) Power to make order prohibiting repetitions of nuisances, section 143;

(2) Power to make order under section 144

(3) Power to hold inquest, section 174

(4) Power to take cognizance of offences upon com plaint, section 190

(5) Power to take cognizance of offences upon pol reports, section 190

(6) Power to transfer cases section 192.

SCHEDULE IV.—(*continued.*)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED—(*continued.*)

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED

BY THE LOCAL GOVERNMENT.

(1) *Power to pass sentences* of whipping, section 32.
(2) Power to make orders prohibiting repetitions of nuisances, section 143
(3) Power to make orders under section 144
(4) Power to hold inquests, section 174
(5) Power to take cognizance of offences upon complaint, section 190:
(6) Power to take cognizance of offences upon police-reports, section 190.
(7) Power to take cognizance of offences without complaint, section 190.
(8) Power to commit for trial, section 206:
(9) Power to make order as to first offenders, section 562

BY THE DISTRICT MAGISTRATE

(1) Power to make orders prohibiting repetitions of nuisances, section 143
(2) Power to make orders under section 144.
(3) Power to hold inquests, section 174
(4) Power to take cognizance of offences upon complaint, section 190:
(5) Power to take cognizance of offences upon police-reports, section 190.

SCHEDULE IV.—(*concluded.*)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATE[S] MAY BE INVESTED —(*concluded.*)

[PO]WERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT	(1) Power to make or[ders] prohibiting repetition of nuisances secti[on] 143; (2) Power to make orders under section 144; (3) Power to hold inquests section 174; (4) Power to take cogn[iz]ance of offences up[on] complaint, section 19[0] (5) Power to take cogn[iz]ance of offences upon police-reports, section 190. (6) Power to commit for trial section 206
	BY THE DISTRICT MAGISTRATE	(1) Power to make orders prohibiting repetition of nuisances, sect[ion] 143. (2) Power to make orders under section 144. (3) Power to hold inquests section 174. (4) Power to take cognizance of offences upon complaint, section 190. (5) Power to take cognizance of offences upon police-reports, section 190
[PO]WERS WITH WHICH [A] SUB DIVISIONAL [M]AGISTRATE MAY BE [I]NVESTED.	BY THE LOCAL GOVERNMENT.	Power to call for records section 435

SCHEDULE V.

(*See section 554*)

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section 68*)

To of .

WHEREAS your attendance is necessary to answer to a charge of te shortly the offence charged), you are hereby required to appear erson (or by pleader, as the case may be) before the (Magistrate) of , on the day of Herein fail not,

Dated this day of , 19 .

(*Seal*) (*Signature*)

II.—WARRANT OF ARREST

(*See section 75*)

To (name and designation of the person or persons who is or are execute the warrant)

WHEREAS of stands charged with the offence (state the offence), you are hereby directed to arrest the said , and to produce him before me Herein fail not

Dated this day of , 19 .

(*Seal*) (*Signature*)

(*See section 76.*)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , ith one surety in the sum of (or two sureties each in the m of) to attend before me on the day of and to ntinue so to attend until otherwise directed by me, he may be re-ased.

Dated this day of , 19 .

(*Signature.*)

SCEDULE V.—*(continued.)*

FORMS—*(continued.)*

Proclamation is hereby made that the said of is required to appear at (place) before this Court (or before me) to answer the said complaint within days from this date

Dated this day of , 19 .

(Seal) *(Signature)*

V.—Proclamation requiring the Attendance of a Witness.

(See section 87.)

Whereas complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of (mention the offence concisely) and a warrant has been issued to compel the attendance of (name description and address of the witness) before this Court to be examined touching the matter [illegible] and whereas it has been returned to th [illegible]
and [illegible]
is coı [illegible]

Proclamation is hereby made that the said (name) is required to appear at (place) before the Court of on the day of next at o'clock, to be examined touching the offence cemplained of.

Dated this day of 19 .

(Seal) *(Signature)*

VI.—Order of Attachment to compel the Attendance of a Witness.

(See section 88.)

To the Police-officer in charge of the polic-station at

Wherfas a warrant has been duly issued to compel the attendance of (name, description and address) to testify concerning a complaint pending before this Court, and it has been returned to the said warant that it cannot be served; and whereas it has been shown to

SCHEDULE V.—(*continued.*)

FORMS—(*continued*)

Court, and to return this warrant with an endorsement certify- he manner of its execution.

ated this day of , 19

eal) (*Signature.*)

ER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section 88.*)

o the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, des- on and address*) has committed (*or* is suspected to have committ he offence of , punishable under section of the an Penal, Code, and it has been returned to a warrant of arrest eupon issued that the said (*name*) cannot be found ; and where- has been shown to my satisfaction that the said (*name*) has onded (*or* is concealing himself to avoid the service of the said ant) and thereupon a Proclamation was duly issued and pub- d, requiring the said to appear to answer the said ge within days, but he has not appeared , and whereas aid is possessed of certain land paying revenue to rnment in the village (*or* town) of in the District ;

ou are hereby authorized and requested to cause the said l to be attached, and to be held under attachment pending further order of this Court, and to certify without delay you may have done in pursuance of this order.

Dated this day of , 19 .

Seal) (*Signature.*)

II.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(*See section 90*)

To (name and designation of the Police-officer or other person or ons who is or are to execute the warrant)

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

IX.—Warrant to search suspected Place of Deposit.

(*See section 98.*)

To (*name and designation of a Police-officer above the rank of Constable*)

Wh
hereu
the,
property (*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorize and require you to enter the said house (*or* ... and to use, if ... to search every ... *is to be confined* ... take possession of ... coins, *as the case* ... of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution

Given under my hand and the seal of the Court, this day , 19

(*Seal.*) (*Signature.*)

X.—Bond to keep the Peace

(*See section 107*).

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into ... the peace for the term of , I hereby ... peace, or do any act that ... ce, during the said term ; ... I hereby bind myself to

SCHEDULE V.—(*continued*)

FORMS—(*continued*.)

peace will probably the occasioned), you are hereby required to attend in person (*or* by a duly authorized agent) at the office of the Magistrate of on the day of 19 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for Rupees [*when sureties are required, add*, and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of Rupees (each *if more than one*)] that you will keep the peace for the term of ,

Given under my hand and the seal of the Court, this day of , 19

(*Seal*) (*Signature*)

XIII.—Warrant of Commitment on Failure to find Security to keep the Peace

(*See section 123.*)

To the Superintendent (or Keeper) of the Jail at

Whereas (*name and address*) appeared before me in person (*or* by a duly authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for Rupees with one surety (*or* a bond with two sureties each in Rupees), that he, the said (*name*) would keep the peace for the period of months, and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order,

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime ... surety (or sureties) ... shall be received, ... warrant with an ...

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*.)

SCHEDULE V.—(*continued.*)

FORMS—(*continued*)

XV—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections 123 and 124*)

To the Superintendent (or Keeper) of the Jail at (*or other officer in whose custody the person is*)

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of , and has since duly given security under section of the Code of Criminal Procedure ,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause

Given under my hand and the seal of the Court, this day of , 19

(*Seal*) (*Signature*)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(*See section 133.*)

To (*name, description and address*)

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway or other public place) which &c , (*describe the road or public place*), by, &c., (*state what it is that causes the obstruction or nuisance*), and that such obstruction (or nuisance) still exists ,

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (or comfort by reason (*state*

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

ame) has applied to me by a petition bearing date the day , for an order appointing a jury to try whether the ected order is reasonable and proper; I do hereby appoint ames &c, of the five or more jurors) to be the jury to try and the said question, and do require the said jury to report their n within days from the date of this order at my office

ven under my hand and the seal of the Court, this day , 19 .

eal) (*Signature*)

III.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section 140.*)

(*name, description and address*).

HEREBY give you notice that the jury duly appointed on the n presented by you on the day of have found that rder ... ing you (state sub- ... sonable and proper ... direct and require ... allowed), on peril ... de for disobedience

o

ven under my hand and the seal of the Court, this day , 19 .

eal) (*Signature*)

.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY

(*See section 142*)

(*name, description and address*)

HEREAS the inquiry by a jury appointed to try whether my order on the day of , 19 , is reasonable and proper a

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

road, so as to occasion risk of obstruction to persons using the

or

EREAS it has been made to appear to me that you and a of other persons (*mention the class of persons*) are about to nd proceed in a religious procession along the public street, *the case may be*) and that such procession is likely to lead to r an affray,

or

EREAS, &c, &c, (*as the case may be*);

hereby order you not to place or permit to be placed any of th or stones dug from land on any part of the said road;

or

hereby prohibit the procession passing along the said street, ictly warn and enjoin you not to take any part in such proces- *as the case recited may require*).

en under my hand and the seal of the Court, this day , 19 .

eal.) (*Signature*)

I.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &C., IN DISPUTE.

(*See section 145.*)

appearing to me, on the grounds duly recorded, that a dispute to induce a breach of the peace, existed between (*describe the by name and residence or residence only if the dispute be between of villages*) concerning certain (*state concisely the subject of*), situate within the local limits of my jurisdiction, all the said were called upon to give in a written statement of their tive claims as to the fact of actual possession of the said (*the of dispute*), and being satisfied by due inquiry had there- without reference to the merits of the claim of either of the arties to the legal right of possession, that the claim of actual sion by the said (*name or names or description*) is true;

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147.*)

A DISPUTE having arisen concerning the right of use of (*state con-*
...ely the subject of dispute) situate within the limits of my jurisdic-
...on, the [illegible] (*or* water) is claimed exclusively
and it appearing to me, on due
...aid land (*or* water) has been open
...he public (*or, if by an individual or*
...class of persons, describe him or them), and (*if the use can be enjoyed*
...en enjoyed within three
...y (*or if the use is enjoy-*
...he last of the seasons at
which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or they*) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature.*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section 169.*)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

he charge against the accused is that, etc, (*state the offence as* *charge*)

ated this day of , 19 .

(*Signature*)

XXVIII.—CHARGES.

(*See sections 221, 222, 223.*)

(I.)—CHARGES WITH ONE HEAD.

) I [*name and office of Magistrate, etc*], hereby charge you *name of accused person*] as follows:—

(*b*) That you on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by Presidency Magistrate, for* Court of Session *substitute* High Court].

On Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for (b)*].—

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble A B, Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 124.

(3) That you, being a public servant in the Department directly accepted from [*state the name*], for another party [*state the name*], a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]

On section 161.

SCHEDULE V.—(*continued.*)

FORMS—(*continued*)

3) That you, on or about the day of , at ,
ection 395, committed dacoity, an offence punishable under section 325 of the Indian Penal Code, and
1 the cognizance of the Court of Session [or High Court]

1 cases tried by Magistrate substitute "within my cognizance" within the cognizance of the Court of Session," and in (c) ut "by the said Court".]

(II.)—Charge with two or more Heads.

(a) I [name and office of Magistrate, &c], hereby charge you ime of accused person] as follows —

(b) *First.*—That you, on or about the day of , at
h section 241, , knowing a coin to be counterfeit, delivered the same to another person by name *A B*, as uine, and thereby committed an offence punishable under section of the Indian Penal Code, and within the cognizance of the urt of Session [or High Court].

Secondly—That you, on or about the day of , at owing a coin to be counterfeit, attempted to induce another person, name *A B* to receive it as genuine, and thereby committed an nce punishable under section 241 of the Indian Penal Code, l within the cognizance of the Court of Session [or High Court],

(c) And I hereby direct that you be tried by the said Court on said charge.

[*Signature and seal of the Magistrate*]

[*To be substituted for* (b)] . —

(2) *First.*—That you, on or about the day of , at ,
n sections 302 and committed murder by causing the death of and thereby committed an offence punishable under section 302 of the Indian al Code, and within the cognizance of the Court of Session [or h Court]

Secondly —That you, on the about the day of , at , by causing the death of , committed culpable homicide not ounting to murder, and thereby committed an offence punishable

SCHEDULE. V.—(*continued.*)

FORMS —(*continued.*)

[In cases tried by Magistrates substitute " within my cognizance" within the cognizance of the Court of Session " and in (c) omit the said Court"].

(II.)—Charge for Theft after Previous Conviction.

I (name and office of Magistrate, &c) hereby charge you (name ccused person) as follows :—

That you, on or about the day of , at mitted theft, and thereby committed an offence punishable under ion 379 of the Indian Penal Code, and within the cognizance

ie Court of Session [or $\frac{\text{High Court}}{\text{Magistrate,}}$ as the case may be]

And you, t
before t
ay of
iction was had] at of an offence punishable under pter XVII. of the Indian Penal Code with imprisonment for a of three years, that is to say, the offence of house-breaking by t [describe the offence in the words used in the section under h the accused was convicted], which conviction is still in full and effect, and that you are thereby liable to enhanced punish- t under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c.

XIX.—Warrant of Commitment on a Sentence of Imprisonment or Fine if passed by a Magistrate.

(*See sections 245 and 258.*)

To the Superintendent [or Keeper] of the Jail at .

Whereas on the day of , 19 , (name of prisoner) (1st, 2nd, 3rd, as the case may be] prisoner in case No ie Calendar for 19 , was convicted before me (name and al designation) of the offence of (mention the offence or offences isely) under section (or sections) of the Indian Penal Code (or

SCHEDULE V—(continued.)

FORMS—(continued.)

Given under my hand and the seal of the Court, this day of , 19 .

(Seal.) (Signature)

XXXI.—Summons to Witness.

(See sections 68 and 252.)

To of

Whereas complaint has been made before me that (or is suspected to have) committed the offence of (state the ...ce concisely with time and place), and it appears to me that you ...likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the of next at ten o'clock in the forenoon, to testify what you ...concerning the matter of the said complaint, and not to depart ... ...d that, ... on the

...iven under my hand and the seal of the Court, this day of , 19

Seal) (Signature)

XXXII.—Precept to District Magistrate to summon Jurors and Assessors.

(See section 326.)

...o the District Magistrate of

...Whereas a Criminal Session is appointed to be held in the Court... at on the day of next, and the names of the per... herein stated have been duly drawn by lot from among those ...d in the revised list of jurors and assessors furnished to this ...; you are hereby required to summon the said persons to attend ...said Court of Session at 10 A. M. on the said date, and, within ...date, to certify that you have done so in pursuance of this ...pt.

(Here enter the names of jurors and assessors.)

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

ven under my hand and the seal of the Court, this day of , 19 .

eal) (*Signature*)

V.—Warrant of Execution on a Sentence of Death.

(*See section 381.*)

the Superintendent (*or* Keeper) of the Jail at .

Whereas (name of prisoner), the (1st, 2nd, 3rd, as the case may risoner in case No. of the Calendar at the Session held be- ne on the day , 19 , has been by a warrant of this dated the day of committed to your custody un- entence of death, and whereas the order of the Court of ming the said sentence has been received by this Court;

his is to authorize and require you, the said Superintendent (*or* er), to carry the said sentence into execution by causing the to be hanged by the neck until he be dead, at (time and of execution) and to return this warrant to the Court with an sement certifying that the sentence has been executed

iven under my hand and the seal of the Court, this day of , 19 .

eal.) (*Signature*)

XVI.—Warrant after a Commutation of a Sentence.

(*See sections 381 and 382.*)

o the Superintendent (*or* Keeper) of the Jail at .

Whereas at a Session held on the day of , 19 , e of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner se No of the Calendar at the said Session, was convicted of offence of , punishable under section of the Indian l Code, and sentenced to , and was thereupon committ- your custody, and whereas by the order of the Court (a duplicate of which is hereunto annexed) the punishment

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

Given under my hand and the seal of the Court, this day of , 19 .

(Seal) (*Signature*)

XXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section 480*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (name and description of the offender) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (name of offender), has been adjudged by the Court to pay a fine of Rupees , or in default to suffer simple imprisonment for the space of (state the number of months or days),

This is to authorize and require you, the Superintendent (*or* Keeper) of the said jail, to receive the said (name of offender) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (term of imprisonment) unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of 19 .

(Seal) (*Signature*)

XXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section 485.*)

To (*name and description of officer of Court*)

WHEREAS (name and description), being summoned (*or* brought before this Court) as a witness and this day required to give evi-

SCHEDULE V.—(*continued.*)

FORMS—(*continued*)

jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

LI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(*See section 488*)

To (name and designation of the Police-officer or other person to execute the warrant)

WHEREAS an order has been duly made requiring (*name*) to pay to his said wife (or child) for maintenance the monthly sum of Rupees , and whereas the said (*name*), in wilful disregard of the said order has failed to pay Rupees , being the amount of the allowance for the month (or months) of .

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (state the number of days or hours allowed) next after such distress, the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 19.

(*Seal*) (*Signature.*)

LII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(*See sections 496 and 499.*)

I, (name), of (place), being brought before the Magistrate of (as the case may be), charged with the offence of , and required

SCHEDULE V.—(*continued*).

FORMS—(*continued*).

n under my hand and the seal of the Court, this day of , 19 .

l.) (*Signature*)

XLIV.—Warrant of Attachment to enforce a Bond.

(*See section 514*)

e Police-officer in charge of the Police-station at .

REAS (*name, description and address of person*) has failed to m (*mention the occasion*) pursuant to his recognizance, by such default forfeited to Her Majesty the Queen, of India, the sum of Rupees (*the penalty in the bond*); and the said (*name of person*) has, on due notice to him, failed e said sum or show any sufficient cause why payment should nforced against him

s to authorize and require you to attach any moveable pro- the said (*name*) that you may find within the district of seizure and detention and, if the said amount be not paid ree days, to sell the property so attached or so much of it as ufficient to realize the amount aforesaid, and to make return you have done under this warrant immediately upon its

under my hand and the seal of the Court, this day of , 19 .

) (*Signature*)

V.—Notice to Surety on Breach of a Bond.

(*See section 511.*)

of

EAS on the day of , 19 , you became surety for (*place*) that he should appear before this Court day of , and bound yourself in default thereof the sum of Rupees to Her Majesty the Queen,

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

said (*name*) has made default, and thereby forfeited to Her esty the Queen, Empress of India, the sum of Rupees (*the lty in the bond*);

This is to authorize and require you to attach any moveable erty of the said (*name*) which you may find within the district , by seizure and detention; and, if the said amount be not within three days, to sell the property so attached, or so much as may be sufficient to realize the amount aforesaid, and make n of what you have done under this warrant immediately upon ecution.

iven under my hand and the seal of the Court this day of ,

Seal.) (*Signature.*)

III.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

the Superintendent (*or* Keeper) of the Civil Jail at

HEREAS ...

for

name

sai

ess of India, and whereas the said (*name of surety*) has, on due to him, failed to pay the said sum or show any sufficient cause ayment should not be enforced against him, and the same be recovered by attachment and sale of movable property of id an order has been made for his imprisonment in the civil r (*specify the period*);

is is to authorize and require you the said Superintendent (*or r*) to receive the said (*name*) into your custody with this war- nd him safely to keep in the said Jail for the said (*term of onment*), and to return this warrant with an endorsement ing the manner of its execution.

SCHEDULE V.—(*continued.*)

FORMS—(*continued.*)

not ... ie property so attached, or so ze the same, and to make warrant immediately upon

a under my hand and the seal of the Court, this day of

.) (*Signature.*)

ARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514*)

e Superintendent (or Keeper) of the Civil Jail at .

EAS proof has been given before me and duly recorded that *d description*) has committed a breach of the bond entered him to keep the peace, whereby he has forfeited to Her he Queen Empress of India, the sum of Rupees . and the said (*name*) has failed to pay the said sum, or to show y the said sum should not be paid, although duly called o so, and payment thereof cannot be enforced by attach- his movable property, and an order has been made for sonment of the said (*name*) in the civil jail for the period *f imprisonment*)

s to authorize and require you, the said Superintendent,(or f the said civil jail, to receive the (*name*) into your custody, rith this warrant, and him safely to keep in the said jail aid period of (term of imprisonment), and to return this rith an endorsement certifying the manner of its execution.

under my hand and the seal of the Court, this day of ,

(*Signature.*)

SCHEDULE V.—*(concluded.)*

FORMS—*(concluded.)*

India, the sum of Rupees , and whereas he has failed to pay e said sum or to show cause why the said sum should not be paid, though duly called upon to do so, and payment thereof cannot be forced by attachment of his moveable property, and an order has made for the imprisonment of the said (*name*) in the civil jail r the period of (term of imprisonment) :

This is to authoriz eeper), to receive the is warrant, and him riod of (term of imp... dorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this day of ,

(*Seal*) (*Signature.*)

Printed at the National Press, Allahabad.

THE

INDIAN REGISTRATION ACT

ACT XVI OF 1908.

Passed by the Governor-General of India in Council.

Price 6 Annas.

Published by—RAM NARAIN LAL,

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1909.

ACT No. XVI OF 1908.

THE INDIAN REGISTRATION ACT, 1908.

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In Act to consolidate the enactments relating to the Registration of Documents.

WHEREAS it is expedient to consolidate the tments relating to the registration of docus; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Registration Act, 1908.

(2) It extends to the whole of British India, except such districts or tracts of country as the Local Government may, with the previous sanction of the Governor General in Council, exclude from its operation.

(3) It shall come into force on the first day of January, 1909.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native of India, his caste (if any) and his father's

name, or where he is usually described as the son of his mother, then his mother's name:

(2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of book:

(3) "district" and "sub-district" respectively mean a district and sub-district formed under this Act:

(4) "District Court" includes the High Court in its ordinary original civil jurisdiction:

(5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act:

(6) "immoveable property" includes land buildings, hereditary allowances, rights to ways lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass:

(7) "lease" includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease:

(8) "minor" means a person who, according o the personal law to which he is subject, has ıot attained majority:

(9) "moveable property" includes standing imber, growing crops and grass, fruit upon and uice in trees, and property of every other descrip-ion, except immoveable property : and

(10) "representative" includes the guardian f a minor and the committee or other legal curator f a lunatic or idiot.

PART II.

OF THE REGISTRATION-ESTABLISHMENT.

nspector General Registration

3. (1) The Local Government shall appoint an officer to be the Inspector General of Registration for the territories ubject to such Government ·

. Provided that the Local Government may, ins-ad of making such appointment, direct that all any of the powers and duties hereinafter con-rred and imposed upon the Inspector General all be exercised and performed by such officer officers, and within such local limits, as the Local overnment appoints in this behalf.

(2) Any Inspector General may hold simultaneously any other office under Government.

4. (1) The Government of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

Branch Inspector General of Sindh

(2) The Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. (1) For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

Districts and sub-districts

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is herein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively.

strars and gistrars.

7. (1) The Local Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars.

ffices of Regis- and Sub-Regis-

(2) The Local Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate: Provided that no such authorization shall enable a Sub-Registrar to hear and appeal against an order passed by himself under this Act

8. (1) The Local Government may also appoint officers, to be called Inspectors of Registration-offices, and may prescribe the duties of such officers.

Inspectors of Registration-offices

(2) Every such Inspector shall be subo[r]dinate to the Inspector General.

Military cantonments may be declared sub districts or districts

9. Every military cantonment may (if the Loca[l] Government so directs) be, for th[e] purposes of this Act, a sub-distric[t] or a district, and the Cantonment Magistrate shall be the Sub-Registrar or the Registrar of such sub-district or district, as the case may be.

Absence of Registrar or vacancy in his office.

10. (1) When any Registrar, other than th[e] Registrar of a district including [a] Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the Local Government fills up the vacancy.

(2) When the Registrar of a district including a Presidency-town is absent otherwise than o[n] duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during

absence, or until the Local Government fills
he vacancy.

1. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform,

ice of Regis- duty in his

g such absence, all the duties of a Registrar cept those mentioned in sections 68 and 72.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the

bsence of Sub- strar or vacancy 's office.

strict appoints in this behalf shall be Sub-Regis- r during such absence, or until the Local Govern- nt fills up the vacancy.

13. (1) All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector General.

port of certain intments and nsion and re- l and dismis- f officers.

(2) Such report shall be either special or neral, as the Local Government directs

(3) The Local Government may suspend, nove or dismiss any person appointed under the visions of this Act, and appoint another person his stead.

14. (1) Subject to the approval of the Goven or General in Council, the Loca Government may assign such salarie as such Government deems proper to the register ing officers appointed under this Act, or provide fo their remuneration by fees, or partly by fees and partly by salaries.

Remuneration and establishments of registering officers

(2) The Local Government may allow pro per establishments for the several offices under *this Act*.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:— "The seal of the Registrar (*or* of the Sub-Registrar) of ."

Seal of registering officers

16. (1) The Local Government shall provid for the office of every registerin officer the books necessary for th purposes of this Act.

Register books and fire-proof boxes

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be

cutively numbered in print, and the number
ges in each book shall be certified on the title-
by the officer by whom such books are issued.

(3) The Local Government shall supply the
of every Registrar with a fire-proof box, and
in each district make suitable provision for
fe custody of the records connected with the
ration of documents in such district.

PART III.

OF REGISTRABLE DOCUMENTS

'. (1) The following documents shall be registered, if the property to which they relate is situate in a district in, and if they have been executed on or after the n which, Act No. XVI of 1864, or the Indian tration Act, No. XX of 1866, or the Indian ration Act, No. VII of 1871, or the Indian ration Act, No. III of 1877, or this Act came es into force, namely :—

nents of
egistration
lsory

instruments of gift of immoveable property,
other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the

value of one hundred rupees and upward to or in immoveable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation declaration, assignment, limitation or extinction of any such right, title or interest; and

(d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the local official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

(i) any composition-deed: or

(ii) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property: or

(iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or

) any endorsement upon or transfer of any debenture issued by any such Company, or

) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest, or

) any decree or order of a Court and any award; or

18. Any of the following documents may be registered under this Act, namely :—

Documents of which registration is optional.

(a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;

(b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;

(c) leases of immoveable property for any term not exceeding one year, and leases exempted under section 17 ;

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property ;

(e) wills ; and

(f) all other documents not required by section 17 to be registered.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Documents in language not understood by registering officer.

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of property and maps or plans.

(2) Houses in towns shall be described as tuate on the north or other side of the street or ad (which should be specified) to which they front, id by their existing and former occupancies, and their numbers if the houses in such street or road e numbered.

(3) Other houses and lands shall be describ- l by their name, if any, and as being in the territo- al division in which they are situate, and by their perficial contents, the roads and other properties, which they abut, and their existing occupancies, id also, whenever it is practicable by reference to a overnment map or survey.

(4) No non-testamentary document contain- g a map or plan of any property comprised therein all be accepted for registration unless it is accom- nied by a true copy of the map or plan, or, in case ch property is situate in several districts, by such umber of true copies of the map or plan as are ual to the number of such districts

cription of hous- nd land by refer- e to Government ps or surveys.

22. (1) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Govern- ent map or survey, the Local Government may, by

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Documents in language not understood by registering officer

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

Documents containing interlineations blanks erasures or alterations

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of property and maps or plans

?4. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within months from the date of each execution.

ents execut- several per- t different

!5. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order ;, in British India is not presented for registra- till after the expiration of the time herein- e prescribed in that behalf, the Registrar, in where the delay in presentation does not exceed months, may direct that, on payment of a fine exceeding ten times the amount of the proper tration-fee, such document shall be accepted egistration

sion where n presenta- navoidable

(2) Any application for such direction may dged with a Sub-Registrar, who shall forthwith ird it to the Registrar to whom he is subor- e.

!6. When a document purporting to have been executed by all or any of the parties out of British India is not nted for registration till after the expiration of

nts execut- of British

the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

(*a*) that the instrument was so executed, and

(*b*) that it has been presented for registrati within four months after its arrival British India,

may, on payment of the proper registration fee, a cept such document for registration.

Wills may be presented or deposited at any time

27. A will may at any time be presented f registration or deposited in mann hereinafter provided.

PART V.

OF THE PLACE OF REGISTRATION.

Place for registering documents relating to land

28. Save as in this Part otherwise provic every *document mentioned in* sect 17, *sub-section* (1), clauses (*a*), (*c*) and (*d*), and section 18, clauses (*a*), (*b*) and shall be presented for registration in the office o Sub-Registrar within whose sub-district the wh or some portion of the property to which su document relates is situate

Place for registering other documents

29. (1) *Every document other than a doc ment referred to in section* 28, an a copy of a decree or order, may

sented for registration either in the office of the -Registrar in whose sub-district the document executed, or in the office of any other Sub-istrar under the Local Government at which all persons executing and claming under the docu-t desire the same to be registered.

(2) A copy of a decree or order may be pre-ed for registration in the office of the Sub-Regis-in whose sub-district the original decree or r was made, or, where the decree or order does affect immoveable property, in the office of any r Sub-Registrar under the Local Government hich all the persons claiming under the decree der desire the copy to be registered.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Registrar subordinate to him

stration by ars in cet-ses

(2) The Registrar of a district including a idency-town and the Registrar of the Lahore ict may receive and register any document red to in section 28 without regard to the situa-in any part of British India of the property to h the document relates

31. In ordinary cases the registration or depo[sit]

Registration or acceptance for deposit at private residence

of documents under this Act sha[ll] be made only at the office of th[e] officer authorized to accept the sam[e] for registration or deposit:

Provided that such officer may on special caus[e] being shown attend at the residence of any perso[n] desiring to present a document for registration o[r] to deposit a will, and accept for registration o[r] deposit such document or will.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the cases mentioned in section

Persons to present documents for registration

31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,—

(a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or

(b) by the representative or assign of such person, or

(c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely —

rs of-attorney izable for es of section

(a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides ;

(b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate ,

(c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul,

or representative of His Majesty or the Government of India :

Provided that the following persons shall i be required to attend at any registration-office Court for the purpose of executing any such pow of-attorney as is mentioned in clauses (*a*) and of this section, namely :—

(i) *persons who by reason of bodily infirm are unable without risk or serious convenience so to attend;*

(ii) persons who are in jail under civil or cr minal process, and

(iii) persons exempt by law from personal ap pearance in Court.

(2) In the case of every such person th *Registrar* or *Sub-Registrar* or Magistrate, as th case may be, if satisfied that the power-of-attorne has been voluntarily executed by the person purport ing to be the principal, may attest the same withou requiring his personal attendance at the office or Court aforesaid

(3) To obtain evidence as to the voluntary nature of the *execution,* the Registrar or Sub Registrar or Magistrate may either himself go t

house of the person purporting to be the prin-
l, or to the jail in which he is confined, and
nine him, or issue a commission for his examina-
.

(4) Any power-of-attorney mentioned in
section may be proved by the production of it
out further proof when it purports on the face
to have been executed before and authenticated
the person or Court hereinbefore mentioned
hat behalf.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no docu-
t shall be registered under this Act, unless the
ons executing such document, or their repre-
tatives, assigns or agents authorized as aforesaid,
ar before the registering officer within the time
ved for presentation under sections 23, 24, 25
26:

ury before ...tion by re...g officer

Provided that, if owing to urgent necessity or
oidable accident all such persons do not so
ar, the Registrar, in cases where the delay in
aring does not exceed four months, may direct
on payment of a fine not exceeding ten times
amount of the proper registration fee, in addition

to the fine, if any, payable under *section* 25, document may be registered.

(2) Appearances under sub-section may be simultaneous or at different times.

(3) The *registering officer* shall th upon—

(*a*) enquire whether or not such document executed by the persons by whom it p ports to have been executed;

(*b*) satisfy himself as to the identity of the pe sons appearing before him and allegi that they have executed the *document* and,

(*c*) in the case of any person appearing as representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to *sub-section* (1) *may* be lodged wit a Sub-Registrar, who shall forthwith forward it t the Registrar to whom he is subordinate.

(5) Nothing in this section applies t copies of decrees or orders.

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be [ot]herwise satisfied that they are the persons they [re]present themselves to be, and if they all admit [th]e execution of the document, or

[P]rocedure on [adm]ission and de[nial] of execution [resp]ectively.

(b) if in the case of any person appearing [by] a representative, assign or agent, such repre[sen]tative, assign or agent admits the execution, or

(c) if the person executing the document [is] dead, and his representative or assign appears [be]fore the registering officer and admits the execu[tio]n,

the registering officer shall register the docu[me]nt as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order [to] satisfy himself that the persons appearing before [hi]m are the persons they represent themselves to [be], or for any other purpose contemplated by this [Act], examine any one present in his office.

(3) (a) If any person by whom the docu[me]nt purports to be executed denies its execution,

(b) if any such person appears to the reg-
tering officer to be a minor, an idiot or a luna
or

(c) if any person by whom the docume
purports to be executed is dead, and his represe
tative or assign denies its execution,

the registering officer shall refuse to regist
the document as to the person so denying, appea
ing or dead :

Provided that where such officer is a Registrar,
he shall follow the procedure prescribed in Part XII.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

Procedure where appearance of executant or witness desired.

36. If any person presenting any docume
for registration or claiming und
any document, which is capable (
being so presented, desires the ap
pearance of any person whose presence or testimony
is necessary for the registration of such document
the registering officer may, in his discretion, call
upon such officer or Court as the Local Govern-
ment directs in this behalf to issue a summons
requiring him to appear at the registration-office,

r in person or by duly authorized agent, as
summons may be mentioned, and at a time
d therein.

or Court to l cause ser- ummons.

7. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and it to be served upon the person whose appear- is so required.

ns exempt earance at on-office

8. (1) (*a*) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at gistration office, or

(*b*) a person in jail under civil or criminal ss, or

(*c*) persons exempt by law from personal rance in Court, and who would but for the ion next hereinafter contained be required to r in person at the registration office,

shall not be required so to appear.

(2) In the case of every such person the re- ing officer shall either himself go to the house h person, or to the jail in which he is confined, xamine him or issue a commission for his nation.

39. The law in force for the time being as summonses, commissions and compelling the attendance of witnesses and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. (1) The testator, or after his death person claiming as executor or otherwise under a will, may present it to any *Registrar* or *Sub-Registrar* for registration.

Persons entitled to present wills and authorities to adopt

(2) The doner, or after his death the donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt

(2) A will or authority to adopt presented registration by any other person entitled to sent it shall be registered if the registering cer is satisfied—

(a) that the will or authority was executed by the testator or donor, as the case may be ;

(b) that the testator or donor is dead ; and

(c) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.

Of the Deposit of Wills.

osit of wills.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a ed cover superscribed with the name of the ator and that of his agent (if any) and with a ement of the nature of the document.

cedure on t of wills.

43. (1) On receiving such cover, the Registrar if satisfied that the person presenting the same for deposit is testator or his agent, shall transcribe in his

Register-book No. 5 the superscription aforesaid and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal of sealed cover deposited under section 42.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Proceedings on death of depositor.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the [Re]gistrar shall re-deposit the original will.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 259 of the *Indian Succession Act*, No. X [of] 1865, or of section 81 of the Probate and Ad[mi]nistration Act, No. V of 1881, or the power of any [Co]urt by order to compel the production of any will.

[Sa]ving of certain [enac]tments and [pow]ers of Courts.

(2) When any such order is made, the [Re]gistrar shall, unless the will has been already [cop]ied under section 45, open the cover and cause [the] will to be copied into his Book No. 3 and make [a n]ote on such copy that the original has been [rem]oved into Court in pursuance of the order [afo]resaid.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would hav[e] commenced to operate if no registration thereof had been required or [mad]e, and not from the time of its registration.

[Tim]e from which [regist]ered docu[ment o]perates.

48. All non-testamentary documents registered under this Act, and relating to any property, whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where agreement or declaration has been accompanied or followed by delivery of possession.

Registered documents relating to property when to take effect against oral agreements.

Effect of non-registration of documents required to be registered.

49. No document required by section 17 to be registered shall—

(*a*) affect any immoveable property comprised therein, or

(*b*) confer any power to adopt, or

(*c*) be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered.

Certain registered documents relating to land, to take effect against unregistered documents.

50. (1) Every document of the kind mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 17, sub-section (1) and clauses (*a*) and (*b*) of section 18 shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same

perty, and, not being a decree or order, whether
h unregistered document be of the same nature
the registered document or not.

(2) Nothing in sub-section (1) applies to
ses exempted under the proviso to sub-section
of section 17 or to any document mentioned
sub-section (2) of the same section, or to any
istered document which had not priority under
law in force at the commencement of this Act.

Explanation.—In cases where Act No. XVI of
4 or the Indian Registration Act, No. XX of
6, was in force in the place and at the time
and at which such unregistered document was
cuted "unregistered" means not registered
ording to such Act, and, where the document
executed after the first day of July, 1871, not
istered under the Indian Registration Act, No.
I of 1871, or the Indian Registration Act, No.
of 1877, or this Act.

PART XI.

HE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A) *As to the Register-books and Indexes.*

gister-books to t in the sev-ices.

51. (1) The following books shall be kept in the several offices hereinafter named, namely :—

A—In all registration offices—

Book 1, "Register of non-testamentary do ments relating to immoveable property;

Book 2, "Record of reasons for refusal register;"

Book 3, "Register of wills and authori to adopt;" and

Book 4, "Miscellaneous Register;"

B—In the offices of Registrars—

Book 5, "Register of deposits of wills."

(2) In Book 1 shall be entered or filed documents or memoranda registered under sectio 17, 18 and 89 which relate to immoveable proper and are not wills.

(3) In Book 4 shall be entered all doc ments registered under clauses (*d*) and (*f*) of secti 18 which do not relate to immoveable property.

(4) Nothing in this section shall be deen ed to require more than one set of books where th office of the Registrar has been amalgamated wit the office of a Sub-Registrar.

Duties of registering officers when document presented.

52. (1) (*a*) The day, hour and place of pre sentation, and the signature of every person presenting a document fo registration, shall be endorsed o

ery such document at the time of presenting
;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and,

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenti-
:ed at such intervals and in such manner as
from time to time prescribed by the Inspector
neral.

53. All entries in each book shall be number-
ries to be num-
l consecutive-
ed in a consecutive series, which shall commence and terminate with
year, a fresh series being commenced at the
ginning of each year.

54. In every office in which any of the books
rrent indexes
entries there-
hereinbefore mentioned are kept there shall be prepared current indexes of
contents of such books; and every entry in suc

indexes shall be made, so far as practicable imm diately after the registering officer has copied, filed a memorandum of, the document to which relates.

Indexes to be made by registering officers and their contents.

55. (1) Four such indexes shall be made in a registration offices, and shall b named, respectively, Index No. I Index No. II, Index No. III and Index No. IV.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. I.

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the and additions of all persons executing and of ions claiming under every document entered k No. 4.

(6) Each Index shall contain such other lars, and shall be prepared in such form as pector General from time to time directs.

ntries in os. I, II be sent gistrar to nd filed.

i. (1) Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a f all entries made by such Sub-Registrar, the last of such intervals, in Indexes Nos. I, III.

(2) Every Registrar receiving such copy le it in his office.

ng officers nspection books and d to give copies of

'. (1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No 1 shall be at all times o inspection by any person applying to inspect ne; and, subject to the provisions of section 62, of entries in such books shall be given to all s applying for such copies.

the signature and addition of every person admitting the execution of the document, and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution ocument refuses to endorse the same, the ring officer shall nevertheless register it, but t the same time endorse a note of such .

). The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58,

nts to be signed by officer.

relating to the same document and made in his presence on the same day.

60. (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Certificate of registration

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

61. (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Endorsements and certificate to be copied and document returned.

(2) The registration of the document shall thereupon be deemed complete, and the documen

l then be returned to the person who presented same for registration, or to such other person any) as he has nominated in writing in that alf on the receipt mentioned in section 52.

52. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with copy referred to in section 19, shall be filed in registration office.

dure on pre- document nguage un- to register- icer.

(2) The endorsements and certificate resively mentioned in sections 59 and 60 shall be e on the original, and, for the purpose of making copies and memoranda required by sections 57, 65 and 66, the translation shall be treated as if re the original.

53. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

to adminis- s and record bstance of ats

(2) Every such officer may also at his etion record a note of the substance of the state- made by each such person, and such statement

shall be read over, or (if made in a language w
which such person is not acquainted) interpreted
him in a language with which he is acquainted, a
if he admits the correctness of such note, it shall
signed by the registering officer.

(3) Every such note so signed shall
admissible for the purpose of proving that the sta
ments therein recorded were made by the perso
and under the circumstances therein stated.

(C) Special Duties of Sub-Registrar.

Procedure where document relates to land in several sub-districts

64. Every Sub-Registrar on registering a no
testamentary document relating t
immoveable property not wholly situ
ate in his own sub-district shall mak
a memorandum thereof and of the endorsement an
certificate (if any) thereon, and send the same t
every other Sub-Registrar subordinate to the same
Registrar as himself in whose sub-district any part
of such property is situate, and such Sub-Registrar
shall file the memorandum in his Book No. 1.

Procedure where document relates to land in several districts.

65. (1) Every Sub-Registrar on registering a
non-testamentary document relating
to immoveable property situate
more districts than one shall a
forward a copy thereof and of the endorsement a

ificate (if any) thereon, together with a copy of map or plan (if any) mentioned in section 21, to Registrar of every district in which any part of h property is situate other than the district in ch his own sub-district is situate.

(2) The Registrar on receiving the same ll file in his Book No. 1 the copy of the document the copy of the map or plan (if any), and shall vard a memorandum of the document to each the Sub-Registrars subordinate to him within ose sub-district any part of such property is ate : and every Sub-Registrar receiving such norandum shall file it in his Book No. 1.

(*D*) *Special Duties of Registrar.*

cedure after ration of docu relating to

66. (1) On registering any non-testamentary document relating to immoveable property, the Registrar shall forward a memorandum of such document to h Sub-Registrar subordinate to himself in whose -district any part of the property is situate.

(2) The registrar shall also forward a y of such document, together with a copy of the p or plan (if any) mentioned in section 21, to ry other Registrar in whose district any part of h property is situate.

(3) Such Registrar on receiving any suc copy shall file it in his book No. 1, and shall als send a memorandum of the copy to each of the Sul Registrars subordinate to him within whose sul district any part of the property is situate.

(4) Every Sub-Registrar receiving an memorandum under this section shall file it in hi Book No. 1.

Procedure after registration under section 30, sub-section (2)

67. On any document being registered unde section 30, sub-section (2), a copy o such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose distric any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in section 66, sub-section (1).

(E) Of the controlling Powers of Registrars and Inspectors General.

Power of Registrar to superintend and control Sub-Registrars

68. (1) Every Sub-Registrar shall perform the duites of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to :e (whether on complaint or otherwise) any order sistent with this Act which he considers necessary espect of any act or omission of any Sub-Registrar ordinate to him or in respect of the rectification ny error regarding the book or the office in which document has been registered.

r of Inspector al to super- registration and make

69. (1) The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and l have power from time to time to make rules sistent with this Act—

(a) providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept ;

(b) declaring what languages shall be deemed to be commonly used in each district ,

(c) declaring what territorial divisions shall be recognized under section 21 ;

(d) regulating the amount of fines imposed under sections 25 and 34, respectively ,

(e) regulating the exercise of the discretion reposed in the registering officer by section 63 ·

(*f*) regulating the form in which registering officers are to make memoranda of documents ;

(*g*) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51 ;

(*h*) declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively ;

(*i*) declaring the holidays that shall be observed in the registration-offices ; and,

(*j*) generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the Local Government for approval, and, afte they have been approved, they shall be publishe in the official Gazette, and on publication shal have effect as if enacted in this Act.

Power of Inspector General to remit fines

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 25 or section 34, and the amount of the proper registration fee.

PART XII

OF REFUSAL TO REGISTER.

71. (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates

…asons for refu… …o register to be …rded

…not situate within his sub-district, shall make an …er of refusal and record his reasons for such …er in his book No. 2, and endorse the words …egistration refused" on the document; and on …lication made by any person executing or claim… under the document, shall, without payment and …ecessary delay, give him a copy of the reasons …ecorded.

(2) No registering officer shall accept for …istration a document so endorsed unless and …il, under the provisions hereinafter contained, …document is directed to be registered.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether

…eal to Regis… …om orders of …egistrar refus… …stration on … other than of execution

…egistration of such document is compulsory or …onal) to the registrar to whom such Sub-Regis… is subordinate, if presented to such Registrar

within thirty days from the date of the order the Registrar may reverse or alter such order.

(2) If the order of the Registrar di the document to be registered and the documer duly presented for registration within thirty after the making of such order, the Sub-Regis shall obey the same, and thereupon shall, so fa may be practicable, follow the procedure prescri in sections 58, 59 and 60; and such registrat shall take effect as if the document had been reg tered when it was first duly presented for regist tion.

Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.

73. (1) When a Sub-Registrar has refused register a document on the groun that any person by whom it purport to be executed, or his representativ or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons

ecorded under section 71, and the statements in
he application shall be verified by the applicant
n manner required by law for the verification of
laints.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

Procedure of Registrar on such application.

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration

75. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order by Registrar to register and procedure thereon

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the

same and thereupon shall, so far as may be pra cable, follow the procedure prescribed in secti 58, 59 and 60.

(3) Such registration shall take ef as if the document had been registered when it first duly presented for registration.

(4) The *Registrar* may, *for the purp* of any *enquiry under section* 74, summon a enforce the attendance of witnesses, and comp them to give evidence, as if he were a Civil Cou and he may also direct by whom the *whole or a* part of the costs of any such enquiry shall be pai and such costs shall be recoverable as if they h been awarded in a suit under the Code of Ci Procedure, Act, No. V of 1908.

Order of refusal by Registrar

76. (1) Every Registrar r fusing—

(*a*) to register a document except on the groun that the property to which it relates not situate within his district or that th document ought to be registered in th office of a Sub-Registrar, or

(*b*) to direct the registration of a documen under section 72 or section 75,

shall make an order of refusal and record the
asons for such order in his Book No. 2, and, on
plication made by any person executing or claim-
g under the document, shall, without unnecessary
lay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a
gistrar under this section or section 72.

77. (1) Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person

Procedure in case of order of refusal by Registrar.

iming under such document, or his represen-
ive, assign or agent, may, within thirty days after
making of the order of refusal, institute in the
il Court, within the local limits of whose original
isdiction is situate the office in which the docu-
nt is sought to be registered, a suit for a decree
ecting the document to be registered in such
ce if it be duly presented for registration within
ty days after the passing of such decree.

(2) The provisions contained in sub-
ions (2) and (3) of section 75 shall, *mutatis
andis*, apply to all documents presented for re-
ration in accordance with any such decree, and,
withstanding anything contained in this Act, the
ument shall be receivable in evidence in such suit.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

Fees to be fixed by Local Government

78. Subject to the approval of the Gove General in Council, the Local vernment shall prepare a tabl fees payable—

(*a*) for the registration of documents;

(*b*) for searching the registers;

(*c*) for making or granting copies of reaso entries or documents, before, on or af registration;

and of extra or additional fees payable—

(*d*) for every registration under section 30;

(*e*) for the issue of commissions;

(*f*) for filing translations;

(*g*) for attending at private residences;

(*h*) for the safe custody and return of docu ments; and

(*i*) for such other matters as appear to th Local Government necessary to effect th purposes of this Act.

Publication of fees

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English an

vernacular language of the district shall
posed to public view in every registration

O. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

ayable on
ion.

PART XIV.

OF PENALTIES.

Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who being charged with the endorsing, copying, translating or

for in-
endors-
ng, trans-
register-
ents with
njure

ring of any document presented or deposited
its provisions, endorses, copies, translates or
rs such document in a manner which he knows
ieves to be incorrect, intending thereby to
or knowing it to be likely that he may there-
se, injury, as defined in the Indian Penal
Act No. XLV of 1860 to any person, shall
ishable with imprisonment for a term which
tend to seven years, or with fine, or with

Penalty for making false statements, delivering false copies or translations, false personation, and abetment

82. Whoever—

(*a*) Intentionally makes any false stateme whether on oath or not, and whether has been racorded or not, before a officer acting in execution of this Ac in any proceeding or inquiry under th Act ; or

(*b*) intentionally delivers to a registering officer in any proceeding under section 19 c section 21, a false copy or translation of a document, or a false copy of a map c plan ; or

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other a t in any proceeding or enquiry under this Act ; or

(*d*) abets anything made punishable by this Act ;

shall be punishable with imprisonment for a
n which may extend to seven years, or with
or with both.

33. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official
tering officer
mmence pro-
ns

city may be commenced by or with the permis-
of the Inspector General, the Branch Inspector
eral of Sindh, the Registrar or the Sub-Registrar,
hose territories, district or sub-district, as the
may be, the offence has been committed.

(2) Offences punishable under this Act
be triable by any Court or officer exercising
ers not less than those of a Magistrate of the
nd class.

34. (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning
ering officers
emed public

e Indian Penal Code, Act No. XLV of 1860.

(2) Every person shall be legally bound to
sh information to such registering officer when
ired by him to do so.

(3) In section 228 of the Indian Penal
, the words "judicial proceeding" shall be
ed to include any proceeding under this Act.

Penalty for making false statements, delivering false copies or transactions, false personation, and abetment

82. Whoever—

(a) Intentionally makes any false statemen whether on oath or not, and whether has been racorded or not, before a officer acting in execution of this A in any proceeding or inquiry under t Act ; or

(b) intentionally delivers to a registering offic in any proceeding under section 1 section 21, a false copy or translation a document, or a false copy of a map plan ; or

(c) falsely personates another, and in assumed character presents any d ment, or makes any admission or s ment, or causes any summons or com sion to be issued, or does any othe in any proceeding or enquiry under Act ; or

(d) abets anything made punishable by Act ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

83. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

Registering officer may commence prosecutions.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

84. (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code, Act No. XLV of 1860.

Registering officers to be deemed public servants.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

Penalty for making false statements, delivering false copies or transactions, false personation, and abetment

82. Whoever—

(a) Intentionally makes any false statem[ent] whether on oath or not, and whether i[t] has been racorded or not, before a[ny] officer acting in execution of this A[ct] in any proceeding or inquiry under th[is] Act ; or

(b) intentionally delivers to a registering offi[cer] in any proceeding under section 1[9] section 21, a false copy or transalatio[n] a document, or a false copy of a ma[p] plan ; or

(c) falsely personates another, and in assumed character presents any ment, or makes any admission or ment, or causes any summons or co sion to be issued, or does any oth in any proceeding or enquiry und Act ; or

(d) abets anything made punishable Act ;

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(3) In section 228 of the Indian Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

PART XV.

MISCELLANEOUS.

85. Documents (other than wills) remainin unclaimed in any registration offic for a period exceeding two years ma be destroyed.

Destruction of unclaimed documents.

86. No registering officer shall be liable t any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing *bonâ fide* done or refused in his official capacity

87. Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure

88. (1) Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the

Registration of documents executed by Government officers or certain public functionaries

tration of any instrument executed by him in fficial capacity, or to sign as provided in sec- 58.

(2) Where any instrument is so executed, :egistering officer to whom such instrument is nted for registration may, if he thinks fit, to any Secretary to Government or to such r of Government, Administrator General, al Trustee, Official Assignee, Sheriff, Receiver :gistrar, as the case may be, for information res- ng the same, and, on being satisfied of the ition thereof, shall register the instrument.

s of certain certificates :ruments to :o register- rs and filed.

9. (1) Every officer granting a loan under the Land Improvement Loans Act, No. XIX of 1883, shall send a copy of his order to the registering officer n the local limits of whose jurisdiction the : or any part of the land to be improved or of ind to be granted as collateral security, is e, and such registering officer shall file the in his Book No. 1.

(2) Every Court granting a certificate of f immoveable property under the Code of Civil dure, Act No. V of 1908, shall send a copy of certificate to the registering officer within .'

local limits of whose jurisdiction the whole or at part of the immoveable property comprised in suc certificate is situate, and such officer shall file th copy in his Book No. 1.

(3) Every officer granting a loan unde the Agriculturists' Loans Act, No. XII of 1884, sha send a copy of any *instrument* whereby immoveabl property is mortgaged for the purpose of securin the repayment of the loan, and, if any such propert is mortgaged for the same purpose in the orde granting the loan, a copy also of that order, to th registering officer *within* the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy *or* copies, as the case may be, in his Book No 1.

(4) Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of *the certificate to the registering* officer within th local limits of *whose jurisdiction* the whole or any part of the property comprised in the certificate is situate, and such officer shall *file* the copy in his Book No. 1.

Exemptions from Act.

emption of certain documents ...uted by or in ...ur of Government

90. (1) Nothing contained in this Act or in the Indian Registration Act, No. III of 1877, or in the Indian Registration Act, No. VIII of 1871, or in any ...t thereby repealed shall be deemed to require, ...to have at any time required, the registration of ...y of the following documents or maps, namely:—

(*a*) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement, or

(*b*) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or

(*c*) documents which, under any law or the time being in force, are filed periodically in any revenue-office by patwaris or other officers charged with the preparation of village-records; or

(*d*) sanads, inam title-deeds and other documents purporting to be or to evidence grants or

assignments by Government of land or any interest in land ; or

(e) notices given under section 74 or section of the *Bombay Land-revenue Code*, A No. V of 1879, of relinquishment of occ pany by occupants, or of alienated lan by holders of such land.

(2) All such documents and maps shall for the purposes of sections 48 and 49, be deemed t have been and to be registered in accordance with the provisions of this Act.

Inspection and copies of such documents

91. Subject to such rules and the previous payment of such fees as the Local Government prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons ~~'ying for such copies.

Burmese registration-rules confirmed.

92. All rules relating to registration enforced in Lower Burma prior to the commencement of the Indian Registration Act No. III of 1877, shall be deemd to have

had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Repeals.

Repeals.

93. (1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

(2) Nothing herein contained shall be deemed to affect any provision of any enactment in force in any part of British India and not hereby expressly repealed.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 93.)

Year	No.	Short title.	Extent of repeal
1877	III	The Indian Registration Act, 1877.	The whole.
1879	XII	The Registration and Limitation Acts Amendment Act, 1879	So much as is unrepealed.
1883	XIX	The Land Improvement Loans Act, 1883.	So much of section 12 as is unrepealed.
1886	VII	The Indian Registration Act, 1886	The whole
1888	VII	The Civil Procedure Code Amendment Act, 1888	So much as is unrepealed.
1891	XII	The Amending Act, 1891	In the second schedule the entries relating to Act III of 1877.
1899	XVII	The Indian Registration (Amendment) Act, 1899.	The whole.

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Statement of Objects and Reasons.

1. This is a pure consolidating Bill. The provisions relat- to the registration of documents are now scattered about even enactments. The object of the present Bill is to ect these provisions and to incorporate them in one Act. s will make the law more easily ascertainable. It will her clear the Statute-book of three entire Acts and will ble two more Acts to be entirely removed from it on the ing into force of the Code of Civil Procedure, 1908, and he Indian Limitation Bill, now before Council.

2. The fact that the General Clauses Act 1897, will ap- to the Bill when passed has rendered it unnecessary to in some provisions of the present Acts. The opportunity been taken to incorporate alterations of a formal charac- intended merely to improve and simplify the language of existing Act. The numbering of the sections of the Act 1877 has been preserved.

3. It has been found that the mere process of consolida- n might result in the law being changed in some respects. avoid this some few amendments appear to be necessary, l to these reference is made in the *Notes on Clauses* below.

4. A table showing the disposal of the sections of the t is appended to this Statement.

The 22nd July 1908. H. ERLE RICHARDS.

voided by a later registered document of which registra- is compulsory only if the latter docum nt has been stered under tne Act of 1877 (*Shivram v. Siya*, I. L. R. Bom 229). The effect of leaving the words as they are ld be that by virtue of section 3 (45) of the General ises Act, 1897, they would mean "registered under the for the time being in force." Accordingly a document stered under any Act prior to the Act of 1877 would ure priority over a previous unregistered document. would after the law as interpreted in Bombay ; but as not quite clear what is the view taken of the section by other High Courts the wording of the section has b en unaltered for the present. Attention is invited to the it.

Clause 93 (2).—The provisions of the Act relating to onal registr ition have to a great extent been superseded he provisions of section 54 and 59 of the Transfer of perty Act, 1882, in cases to which that Act extends. cial provisions relating to the registration of certain iments are also contained in some other later enactments, or instance, in section 12 of the Bengal Tenancy Act. ise 93 (2) is inserted to make it clear beyond doubt that re-enactment of these partially superseded provisions of Registration Act is not intended to effect any alteration he existing law.

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special exception into the clause but would suggest that exclusion of Upper Burma may be left to be effected by order of the Government of Burma.

3. We recommend that the Bill should come into operation on the 1st January, 1909.

. We have suggested an addition to clause 50 to meet difficulty pointed out in the Statement of Objects and sons. Section 50 of the Registration Act of 1877 cond priority for the first time on certain documents if duly stered and the section has been construed in Calcutta at as covering documents registered under any Act for the being in force, while in Bombay and certain other provinces s been read as limited to documents registered under the of 1877, and under that Act alone. Clause 50 of the Bill oduces section 50 of the Act of 1877, but the provisions ction 3 (45) of the General Clauses Act, 1897, which d apply to the Bill when passed, would negative the contion put on the section in Bombay. The Government of bay is willing to accept this alteration, but objection has taken to it in other provinces on the ground that it would r on documents registered before the Act of 1877 a ity which they do not at present possess. To remove objection we have proposed to add to sub-clause (2) a pron which would keep these documents in the same position gards priority as they occupy under the law at present.

. The other alterations suggested by us are of a formal important character and do not call for any explanation.

6. In the papers submitted to us we find various suggestions for alterations of substance in *the law of registration*, and these we have forwarded *to the Administrative Departments concerned for their consideration. This Bill is a con*solidating Bill pure and simple, and though it is *inevitable that when such a Bill is put forward amendments should be suggested*, we think that they should not be entertained. If on examination *the amendments meet with approval they may have to be* circulated for the opinion of Local Governments and others, and this will be *a lengthy process*. The consolidation effected by this Bill will not prevent a subsequent amending *Bill ; on the contrary it will greatly facilitate its passage.*

P. . P.sidency;

TABLE SHOWING DISPOSAL OF THE SECTIONS OF ACT NO. III OF 1877 AND OF THE AMENDING ENACTMENTS.

Sections.	Clause of the Bill	REMARKS
ct III of 1877—		
paragraphs 1, 2 ...	1	
paragraph 3 ..	Omitted.	The consolidating Act will come into force at once.
paragraph 4 ...	Do.	See General Clauses Act, 1897, section 21.
paragraph 1 ..	*Cf* 93 (1)	
paragraph 2 .	Omitted	See General Clauses Act, 1897 section 24
paragraph 3 ..	Do.	See General Clauses Act, 1897, section 8
... ..	2	Clause relating to "signature" and "signed" omitted see General Clauses Act, 1897, section 3 (52)
paragraphs 1, 2 ..	3	
paragraphs 3, 4 ..	4	
to 22	5 to 22	In Clause 9 the words "where there is a Cantonment Magistrate" have been omitted see Act XIII of 1889, section 5.
paragraphs 1, 2	23	
paragraph 3	24	
	25	

Table showing disposal of the sections of Act III of 1877 and of the amending enactments.—(contd.)

Sections.	Clause of the Bill.	Remarks
25 ...	26	
26 ...	Omitted	See General Clauses Act 1[illegible] section 10 (1)
27 to 77 ...	27 to 77	
78, paragraph 1	78	
78, paragraph 2 ...	Omitted.	See General Clauses Act, 1[illegible] section 21.
79 to 82	79 to 82	
83, paragraphs 1, 2	83	
83, paragraph 3 ..	Omitted.	See Criminal Procedure Code, 1898, Chapter III
83, paragraph 4 ...	Do.	See General Clauses Act, 1[illegible] section 25.
84 to 92 ..	84 to 92	
Act XII of 1879— Section 104	See 35 (2)	
" 105 ...	See 51 (2).	
" 106	See 83 (2).	
" 107 ...	See 59 (2).	
Act XIX of 1882— Section 12 (1) ...	See 17 (2) (ix)	
12 (3)	See 89 (1)	
Act VII of 1887— Section 1 ..	Omitted	Short title and commencement
" 2 ..	See 17 (2) (iii)	
" 3 (1) ...	See 17 (2) (x)	

Table showing disposal of the sections of Act III of 1877 and of the amending enactments —(concld.)

Sections	Clause of the Bill	REMARKS.
Section 3 (2)	See 58 (6)	
" 3 (3)	See 89 (3)	
" 4	See 17 (2) (xi)	
" 5	See 50 (2)	
" 6 (1)	See 90 (1) (e)	
" 6 (2)	See 91.	
" 6 (3)	Omitted	Unnecessary, it gives retrospective effect to the amendments effected by section 6
Act VII of 1888— Section 56 (1)	See 71 (2)	
" 65 (2)	See 70 (2)	
" 65 (3)	Omitted	It gives retrospective operation to the amendment and saves previous orders of Courts
Act XII of 1891		
Schedule II—Entries relating to Act III of 1877		
No 1	Omitted	See General Clauses Act 1897 section 21
No. 2	Omitted	See General Clauses Act 1897, section 25
No 3	See 89 (4)	
No. 4	See 90 (c)	
Act XVII of 1899— Section 1	Omitted	Short title and commencement
2	See 22	

ACT IX OF 1908.

THE INDIAN LIMITATION ACT

WITH

THREE SCHEDULES.

Passed by the Governor-General of India in Council



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1910.

THE INDIAN LIMITATION ACT, 1908 (IX OF 1908).

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PRELIMINARY.

SECTIONS

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

PART V.

Savings and Repeals

ACT NO. IX OF 1908.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN C

(Received the assent of the Governor-General o
August, 1908.)

An Act to consolidate and amend the law for the Li
of Suits and for other purposes

WHEREAS it is expedient to consolidate and am
law relating to the limitation of suits, appe
certain applications to Courts, and whereas it is a
pedient to provide rules for acquiring by possessio
ownership of easements and other property, It is h
enacted as follows:—

PART I

PRELIMINARY

Short title, extent and commencement.

1. *(1)* This Act may be called
Indian Limitation Act, 1908.

(2) It extends to the whole of British India, and

(3) This section and section 31 shall come into force
once. The rest of this Act shall come into force on the fir
day of January, 1909.

Definitions.

2. In this Act, unless there is any
thing repugnant in the subject
context,—

(1) "applicant" includes any person from or through
whom an applicant derives his right to apply.

(2) "bill of exchange" includes a hundi and a cheque

(3) "bond" includes any instrument whereby a perso
obliges himself to pay money to another, on condition that
the obligation shall be void if a specified act is performed
or is not formed as the case may be.

(4) "defendant" includes any person from or through
whom a defendant derives his liability to be sued.

(5) "easement" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in, or attached to, or subsisting upon, the land of another:

(6) "foreign country" means any country other than British India:

(7) "good faith" nothing shall be deemed to be done in good faith which is not done with due care and attention:

(8) "plaintiff" includes any person from or through whom a plaintiff derives his right to sue:

(9) "promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

(10) "suit" does not include an appeal or an application: and

(11) "trustee" does not include a benamidar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title.

PART II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

Dismissal of suits, etc., instituted, etc., after period of limitation

3. Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is made; and, in the case of a claim against a

company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Where Court is closed when period expires

4. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court reopens.

Extension of period in certain cases

5. Any appeal or application for a review of judgment or for leave to appeal or any other application to which this section may be made applicable by any enactment or rule for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

Legal disability

6. (1) Where person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the first schedule.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period aft

both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where the disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub-sections (*1*) and (*2*) shall apply

Illustrations

(*a*) The right to sue for the hire of a boat accrues to *A* during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority

(*b*) A right to sue accrues to *Z* during his minority. After the accruer, but while *Z* is still a minor, he becomes insane. Time runs against *Z* from the date when his insanity and minority cease.

(*c*) A right to sue accrues to *X* during his minority *X* dies before attaining majority, and is succeeded by *Y*, his minor son. Time runs against *Y* from the date of his attaining majority

Disability of one of several plaintiffs or applicants

7. Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased

Illustrations

(*a*) *A* incurs a debt to a firm of which *B*, *C* and *D* are partners. *B* is insane, and *C* is a minor *D* can give a discharge of the debt without the concurrence of *B* and *C*. Time runs against *B*, *C* and *D*.

(*b*) *A* incurs a debt to a firm of which *E*, *F* and *G* are part *E* and *F* are insane, and *G* is a minor. Time will not run against of them until either *E* or *F* becomes sane, or *G* attains majority

Special exceptions.

8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

Illustrations.

(a) A, to whom a right to sue for a legacy has accrued during h[illegible] *minority*, attains majority eleven years after such accruer. A h[illegible] under [illegible]
But a[illegible]
be all[illegible]
of his [illegible]

(b) A right to sue for an *hereditary office accrues to A* who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when he insanity ceased within which to institute a suit. No extension of *time* will be given him under section 6 read with this section.

(c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accruer, his idiocy continuing up to the *date of his death*. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section does not extend that time, except where the representative *is himself* under disability when the representation devolves upon him.

Continuous running of time.

9. Where once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of

allowing in his or their hands such property, or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time

Suits on foreign contracts.

11. (*1*) Suits instituted in British India on contracts entered into in a foreign country are subject to the rules of limitation contained in this Act

(*2*) No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule

PART III

Computation of Period of Limitation.

Exclusion of time in legal proceedings

12. (*1*) In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

(*2*) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.

(*3*) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

... limitation prescribed for ... the time requisite for ... be excluded.

13. In computing the period of limitation prescr for any suit, the time during w the defendant has been absent f British India and from the territo beyond British India under the ministration of the Government s be excluded

Exclusion of time of defendant's absence from British India and certain other territories

14. (*1*) In computing the period of limitation p scribed for any suit, the time dur which the plaintiff has been prosec ing with due diligence another ci proceeding, whether in a Court of f instance or in a Court of appeal, against the defendan shall be excluded, where the proceeding is founded up the same cause of action and is prosecuted in good fa in a Court which, from defect of jurisdiction, or other cau of a like nature, is unable to entertain it.

Exclusion of time of proceeding bona fide in Court without jurisdiction.

(*2*) In computing the period of limitation prescribed fo any application, the time during which the applicant ha been prosecuting with due diligence another civil procee ing, whether in a Court of first instance or in a Court o appeal, against the same party for the same relief shall b excluded, where such proceeding is prosecuted in goo faith in a Court which, from defect of jurisdiction, or othe cause of a like nature, is unable to entertain it

Explanation I.—In excluding the time during which a former suit or application was pending, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted

Explanation II.—For the purposes of this section, a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

Explanation III.—For the purposes of this section misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

15. (*1*) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time the continuance of the injunction or order, the day on ch it was issued or made, and the day on which it was ıdrawn, shall be excluded

clusion of time ıg which proings are sused

(*2*) In computing the period of limitation prescribed any suit of which notice has been given in accordance h the requirements of any enactment for the time being orce, the period of such notice shall be excluded

16. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded

clusion of time ng which prolings to set aside cution-sale are ling

17. (*1*) Where a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall computed from the time when there is a legal repreıtative of the deceased capable of instituting or making h suit or application

ffect of death be- right to sue ac- es.

(*2*) Where a person against whom, if he were living, a ht to institute a suit or make an application would have rued dies before the right accrues, the period of limitan shall be computed from the time when there is a legal presentative of the deceased against whom the plaintiff y institute or make such suit or application

(*3*) Nothing in sub-sections (*1*) and (*2*) applies to suits enforce rights of pre-emption or to suits for the n of immovable property or of an hereditary office.

18. Where any person having a right to institute a su or make an application has, *by mean* of fraud, been kept from the knowledg of such right or of the title on which it is founded,

Effect of fraud.

or where any document necessary to establish suc right has been fraudulently concealed from him,

the time limited for instituting a suit or *making a* application—

(*a*) against the person guilty of the fraud or accesso thereto, or

(*b*) against any person claiming *through him othe* wise than in good faith and for a valuable con sideration,

shall be computed from the time when the fraud fir became known to the person injuriously affected thereb or, in the case of the concealed document, when he fir had the means of producing it or compelling its productio

19. (*1*) Where, before the expiration of the perio prescribed for a suit or application i respect of any property or right, a acknowledgment of liability in respect of such property o right has been made in writing signed by the party again whom such property or right is claimed, or by some perso through whom he derives title or liability, a fresh perio of limitation shall be computed from the time when th acknowledgment was so signed.

Effect of acknowledgment in writing.

(*2*) Where the writing containing the acknowledgmen is undated, oral evidence may be given of the time whe it was signed; but, subject to the provisions of the *India* Evidence Act, 1872, oral evidence of its contents *shall no* be received.

Explanation I.—For the purposes of this section a acknowledgment may be sufficient though it omits to specif the exact nature of the property or right, or avers tha

the time for payment, delivery, performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

Explanation II.—For the purposes of this section, igned" means signed either personally or by an agent ly authorized in this behalf.

Explanation III.—For the purposes of this section an plication for the execution of a decree or order is an plication in respect of a right

ffect of payment nterest as such or part payment of ncipal.

20. (*1*) Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

or where part of the principal of a debt is, before the piration of the prescribed period, paid by the debtor or his agent duly authorized in this behalf,

a fresh period of limitation shall be computed from the ne when the payment was made

Provided that, in the case of part payment of the prinpal of a debt, the fact of the payment appears in the ndwriting of the person making the same.

Effect of receipt produce of mortged land

(*2*) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of subection (*1*)

Explanation—Debt includes money payable under a ecree or order of Court

Agent of person nder disability.

21. (*1*) The expression "agent duly authorized in this behalf," in sections 19 and 20, shall, in the case of a person under disbility, include his lawful guardian, committee or manager,

or an agent duly authorized by such guardian, comm or manager to sign the acknowledgment or make the ment

(2) Nothing in the said sections renders one of ser joint contractors, partners, executor mortgagees chargeable by reason only a written acknowledgment signed or a payment made by, or by the agent any other or others of them.

Acknowledgment or payment by one of several joint contractors, etc.

22. (1) Where, after the institution of a suit, a ne plaintiff or defendant is substituted added, the suit shall, as regards hin be deemed to have been instituted whe he was so made a party.

Effect of substituting or adding new plaintiff or defendant

(2) Nothing in sub-section (1) shall apply to a cas where a party is added or substituted owing to an assign ment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

23. In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

Continuing breaches and wrongs.

24. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injur actually results therefrom, the period o limitation shall be computed from the time when the injury results

Suit for compensation for act not actionable without special damage.

Illustration.

A owns the surface of a field. *B* owns the subsoil. *B* digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation in the case of a suit by *A* against *B* runs from the time of the subsidence.

25. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

Illustrations

(a) A Hindu makes a promissory note bearing a Native date ... The period of limitation ... om the expiration of four ... the Gregorian calendar.

(b) A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiration of one year after date computed according to the Gregorian calendar

PART IV.

Acquisition of Ownership by Possession.

26. (*1*) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an ease- ...nt, and as of right, without interruption, and for twenty ...rs,

...quisition of right ...asements

and where any way or watercourse, or the use of ...y water, or any other easement (whether affirmative or ...gative) has been peaceably and openly enjoyed by any ...rson claiming title thereto as an easement and as of ...ght without interruption, and for twenty years,

the right to such access and use of light or air, way, ...atercourse, use of water, or other easement shall be ...solute and indefeasible

Each of the said periods of twenty years shall be ...ken to be a period ending within two years next before ...e institution of the suit wherein the claim to which such ...eriod relates is contested.

(*2*) Where the property over which a right is claimed ...nder sub-section (*1*) belongs to Government, that s... ...ection shall be read as if for the words "twenty year... ...he words "sixty years" were substituted.

Explanation.—Nothing is an interruption within th meaning of this section, unless where there is an actu discontinuance of the possession or enjoyment by reaso of an obstruction by the act of some person other tha the claimant, and unless such obstruction is submitted to c acquiesced in for one year after the claimant has notic thereof and of the person making or authorizing the sam to be made.

Illustrations.

(a) A suit is brought in 1911 for obstructing a right of w The defendant admits the obstruction, but denies the right of w The plaintiff proves that the right was peaceably and openly enjo by him, claiming title thereto as an easement and as of rig without interruption from 1st January 1890 to 1st January 19 The plaintiff is entitled to judgment.

. . . . shows that the right was peacea years The defendant pro ing the twenty years, had as it shall be dismissed

27. Where any land or waters upon, over or fr which any easement has been enjoy or derived has been held under or virtue of any interest for life or term of years exceeding three years from the grant thereof, the time of the enjoyment of such easem during the continuance of such interest or term shall excluded in the computation of the period of twenty ye in case the claim is, within three years next after determination of such interest or term, resisted by person entitled, on such determination, to the said l or water

Exclusion in favour of reversioner of servient tenement.

Illustration

A sues for a declaration that he is entitled to a right of over *B*'s land. *A* proves that he has enjoyed the right for tw five years, but *B* shows that during ten of these years *C*, a l widow, had a life interest in the land, that on *C*'s dea became entitled to the land, and that within two years afte death he contested *A*'s claim to the right The suit mu dismissed, as *A*, with reference to the provisions of this se has only proved enjoyment for fifteen years

28. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Extinguishment of right to property

PART V

SAVINGS AND REPEALS

Savings.

29. (*1*) Nothing in this Act shall—

(*a*) affect the Indian Contract Act, 1872, section 25 IX 18

(*b*) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in British India.

(*2*) Nothing in this Act shall apply to suits under the Indian Divorce Act. IV 18

(*3*) Sections 26 and 27 and the definition of "easement" in section 2 shall not apply to cases arising in territories to which the Indian Easements Act, 1882, may for the time being extend. V 18

30. Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, may be instituted within the period of two years next after the passing of this Act, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first. XV 18

Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act, 1877

31. (*1*) Notwithstanding anything contained in this Act or in the Indian Limitation Act, 1877, in the territories mentioned in the second schedule a suit for foreclosure or a suit for sale by a mortgagee may be instituted within two years from the date of the passing of this Act, or within ... XV 187

Provision for suits by certain mortgagees in territories mentioned in the second schedule.

years from the date when the money secured by th mortgage became due, whichever period expires first and no such suit in the said territories instituted withi the said period of sixty years and pending at the date o the passing of this Act, either in a Court of first instanc or of appeal, shall be dismissed on the ground that twelve years' rule of limitation is applicable

(2) Where in the aforesaid territories the claim o a mortgagee for foreclosure or for sale has been wholl or in part dismissed or withdrawn after the twenty-secon day of July, 1907, and before the passing of this Ac either in a court of first instance or of appeal on the groun that a twelve years' rule of limitation applied to suc claim, the case may be restored on an application in writing to the Court by which the claim was dismisse or in which it was withdrawn, provided the applicatio is made within six months from the date of the passin of this Act: and on such restoration, the provisions o sub-section (1) shall apply.

Repeals

32. The enactments mentioned in the third schedul are repealed to the extent specified in the fourth column thereof

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THE FIRST SCHEDULE.

(See section 3.)

FIRST DIVISION: SUITS.

Description of suit	Period of limitation.	Time from which period begins to run	
	Part I.— Thirty days		
o contest an award of the Board of Revenue under the Waste Lands (Claims) Act, 1863	Thirty days	When notice of the award is delivered to the plaintiff	XX o 18(
	Part II.— Ninety days		
or compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in British India	Ninety days	When the act or omission takes place.	
	Part III — Six months.		
Under the Specific Relief Act, 1877, section 9, to recover possession of immovable property.	Six months	When the dispossession occurs	I c 187
Under the Employers and Workmen (Disputes) Act, 1860, section 1.	Ditto ..	When the wages, hire or price of work claimed ac-crue or due,	XI

Description of suit.	Period of limitation	Time from wh period begin to run
	Part III.—Six months—contd.	
of 908 5. Under the summary procedure referred to in section 128 (2) (f) of the Code of Civil Procedure, 1908.	Six months	When the debt liquidated dem becomes paya or when the p perty becomes coverable
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture	One year ...	When the penal or forfeiture is i curred.
7.—For the wages of a household servant artisan or labourer not provided for by this schedule, article 4	Ditto ..	When the wag accrue due
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging-house	Ditto .	When the food o drink is deli vered.
9.—For the price of lodging	Ditto .	When the price be comes payable

	Description of suit	Period of limitation	Time from which period begins to run.
		Part IV—One year—contd	
	—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract	One year ..	When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.
1	By a person, against whom any of the following orders has been made to establish the right which he claims to the property comprised in the order	Ditto .	The date of the order
	(1) Order under the Code of Civil Procedure, 1908, on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree;		

THE FIRST SCHEDULE—*contd*

FIRST DIVISION : SUITS—*contd.*

Description of suit.	Period of limitation	Time from which period begins to run.
	Part IV.—One year—contd.	
(2) Order under section 28 of the Presidency Small Cause Courts Act 1882.		
11A — By a person against whom an order has been made under the Code of Civil Procedure, 1908 upon an application by the holder of a decree for the possession of immovable property or by the purchaser of such property sold in execution of a decree, complaining of resistance or obstruction to the delivery of possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order	One year ...	The date of the order.

THE FIRST SCHEDULE—*contd*

FIRST DIVISION : SUIT—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part IV.—One year—contd	
-To set aside any of the following sales:— (a) sale in execution of a decree of a Civil Court, (b) sale in pursuance of a decree or order of a Collector or other officer of revenue, (c) sale for arrears of Government revenue, or for any demand recoverable as such arrears, (d) sale of a patni taluq sold for current arrears of rent xplanation In this article 'patni' includes any intermediate tenure saleable for current arrears of rent.	One year	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
3. -To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit	Ditto	The date of the final decision or order in the case by a Court ... petent to det mine it finally.

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from whi[ch] period begi[ns] to run
	Part IV.—One year—contd	
14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for	One year	*The date of the* [act] or order
15. Against Government to set aside any attachment, lease or transfer of immovable property by the revenue-authorities for arrears of Government revenue	Ditto ..	When the attac[h]ment, lease [or] transfer is made
16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue-authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ..	When the paym[ent] is made
17.—Against Government for compensation for land acquired for public purposes.	Ditto ..	The date of deter[]mining the amoun[t] of the compensa[]tion.
18.—Like suit for compensation when the acquisition is not completed	Ditto .	The date of the re[]fusal to complete

THE FIRST SCHEDULE—*contd*

FIRST DIVISION. SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run	
	Part IV.—One year—contd		
-For compensation for false imprisonment	One year	When the imprisonment ends.	
-By executors, administrators or representatives under the Legal Representatives' Suits Act, 1855.	Ditto	The date of the death of the person wronged	XII o 1855.
-By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855	Ditto	The date of the death of the person killed	XIII of 1857
For compensation for any other injury to the person	Ditto	When the injury is committed	
For compensation for a malicious prosecution	Ditto	When the plaintiff is acquitted, or the prosecution is otherwise terminated	
For compensation for libel	Ditto	When the libel is published.	
For compensation for slander	Ditto	When the words are spoken, or, if the words are not actionable in themselves when the special damage complained of results.	

THE FIRST SCHEDULE—*contd.*

First Division, Suits—*contd*

	Description of suit	Period of limitation	Time from which period begins to run.
		Part II.—One year contd	
26	For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter	One year	When the loss occurs
27	For compensation for inducing a person to break a contract with the plaintiff	Ditto	*The date of the breach.*
28	For compensation for an illegal, irregular or excessive distress	Ditto	The date of the distress
29	For compensation for wrongful seizure of moveable property under legal process	Ditto	The date of the seizure.
30	Against a carrier for compensation for losing or injuring goods	Ditto	When the loss or injury occurs.
31	Against a carrier for compensation for non-delivery of, or delay in delivering, goods	Ditto	When the goods ought to be delivered

THE FIRST SCHEDULE—*contd*

FIRST DIVISION : SUIT,—*contd*

Description of suit	Period of limitation.	Time from which period begins to run
	Part V.—Two years	
32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Two years	When the perversion first becomes known to the person injured thereby.
33.—Under the Legal Representatives' Suits Act, 1855, against an executor.	Ditto	When the wrong complained of is done
34.—Under the same Act against an administrator.	Ditto	Ditto.
35.—Under the same Act against any other representative	Ditto	Ditto
36.—For compensation for any malfeasance, misfeasance or nonfeasance independent of contract and not herein specially provided for	Ditto	When the malfeasance, misfeasance or nonfeasance takes place.
	Part VI.—Three years	
37.—For compensation for obstructing a way or a watercourse.	Three years ..	The date of the obstruction.
38.—For compensation for diverting a watercourse	Ditto ..	The date of the diversion.

THE FIRST SCHEDULE contd

FIRST DIVISION: SUITS contd.

	Description of suit	Period of limitation	Time from which period begins to run
		Part VI.—Three years contd.	
39	For compensation for trespass upon immovable property.	Three years	The date of the trespass.
40	For compensation for infringing copyright or any other exclusive privilege.	Ditto	The date of the infringement.
41	To restrain waste.	Ditto	When the waste begins.
42	For compensation for injury caused by an injunction wrongfully obtained.	Ditto	When the injunction ceases.
43	Under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Ditto	The date of the payment or distribution.
	—By a ward who has attained majority, to set aside a transfer of property by his guardian.	Ditto ..	When the ward attains majority.

Description of suit.	Period of limitation.	Time from which period begins to run
	Part VI.—Three years—contd	
45.—To contest an award under any of the following Regulations of the Bengal Code:— The Bengal Land-revenue Settlement Regulation, 1822. The Bengal Land-revenue Settlement Regulation, 1825 The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	Three years	The date of the final award or order in the case
46.—By a party bound by such award to recover any property comprised therein.	Ditto ..	The date of the final award or order in the case.
47.—By any person bound by an order respecting the possession of immovable property made under the Code of Criminal Procedure, 1898, or the Mamlatdars' Courts Act, 1906, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ..	The date of the final order in the case.

	Description of suit	Period of limitation	Time from which period begins to run
		Part VI.—Three years—contd	
48	For specific movable property lost, or acquired by theft or dishonest misappropriation or conversion or for compensation for wrongfully taking or detaining the same	Three years ..	When the pe[rson] having the r[ight] to the posses[sion] of the prop[erty] first learns whose posses[sion] it is
49	For other specific movable property or for *compensation for wrongfully taking or injuring* or wrongfully detaining the same	Ditto .	When the prop[erty] is wrongf[ully] taken or inju[red] or when detainer's [pos]session becom[es] unlawful
50.	—For the hire of animals, vehicles, boats or household furniture	Ditto .	When the hire [be]comes payable
51.	—For the balance of money advanced in payment of goods to be delivered.	..	When the goo[ds] ought to be d[eli]vered.
52.	—For the price of goods *sold* and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of t[he] delivery of t[he] goods
53.	—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit	Ditto ...	When the period [of] credit expires

THE FIRST SCHEDULE—*contd*

First Division: Suits—*contd*

Description of suit	Period of limitation	Time from which period begins to run.
	Part VI—Three years—contd	
—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given	Three years	When the period of the proposed bill elapses.
—For the price of trees or growing crops sold by the plaintiff to the defendant, where no fixed period of credit is agreed upon	Ditto	The date of the sale
—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment	Ditto	When the work is done
For money payable for money lent	Ditto	When the loan is made
3.—Like suit when the lender has given a cheque for the money.	Ditto	When the cheque is paid
-For money lent under an agreement that it shall be payable on demand	Ditto	When the loan is made

THE FIRST SCHEDULE—contd

First Division Suits contd.

Description of suit	Period of limitation	Time from which period begins to run
	Part VI.—Three years contd	
60. For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable	Three years	When the demand is made
61. For money payable to the plaintiff for money paid for the defendant	Ditto	When the money is paid
62. For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use	Ditto	When the money is received
63.—For money payable for interest upon money due from the defendant to the plaintiff	Ditto	When the interest becomes due
64.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto	When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives

THE FIRST SCHEDULE—*contd*

FIRST DIVISION SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run
	Part VI.—Three years—contd.	
—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency	Three years	When the time specified arrives or the contingency happens
—On a single bond, where a day is specified for payment.	Ditto	The day so specified
—On a single bond where no such day is specified	Ditto	The date of executing the bond
On a bond subject to a condition.	Ditto	When the condition is broken
On a bill of exchange or promissory note payable at a fixed time after date	Ditto	When the bill or note falls due
On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto	When the bill is presented
On a bill of exchange accepted payable at a particular place	Ditto	When the bill is presented at that place
On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto	When the fixed time expires.

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

	Description of suit	Period of limitation	Time from which period begins to run.
		Part VI—Three years—contd	
73	On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Three years ...	The date of the bill or note
74.	On a promissory note or bond payable by instalments	Ditto	The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.
75.	On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one or more instalments, the whole shall be due	Ditto	When the default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver
76.	On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto	The date of the delivery to the payee

THE FIRST SCHEDULE—*contd*

FIRST DIVISION : SUITS—*contd*

Description of suit.	Period of limitation	Time from which period begins to run
	Part VI.—Three years—contd.	
77.—On a dishonoured foreign bill, where protest has been made and notice given	Three years	When the notice is given
78.—By the payee against the drawer of a bill of exchange, which has been dishonoured by non-acceptance	Ditto	The date of the refusal to accept
79.—By the acceptor of an accommodation-bill against the drawer	Ditto	When the acceptor pays the amount of the bill
80. Suit on a bill of exchange, promissory note or bond not herein expressly provided for	Ditto	When the bill, note or bond becomes payable
81 By a surety against the principal debtor	Ditto	When the surety pays the creditor
82.—By a surety against a co-surety	Ditto	When the surety pays anything in excess of his own share.
83.—Upon any other contract to indemnify	Ditto	When the p[illegible] is actually c[illegible] fied.

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

	Description of suit.	Period of limitation.	Time from which period begins to run
		Part VI.—Three years—contd.	
84	By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid	Three years ...	The date of the termination of the suit or business or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance
85	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties	Ditto	The close of the year in which the last item admitted or proved is entered in the account, such year to be computed as in the account.
86.—	On a policy of insurance, when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Ditto	When proof of the death or loss is given or received to or by the insurer, whether by or from the plaintiff, or any other person
87.—	By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto	When the insurers elect to avoid the policy.

Description of suit	Period of limitation	Time from which period begins to run.
	Part VI.—Three years—contd	
8—Against a factor for an account	Three years	When the account is, during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates
89—By a principal against his agent for movable property received by the latter and not accounted for.	Ditto	Ditto
90—Other suits by principals against agents for neglect or misconduct	Ditto	When the neglect or misconduct becomes known to the plaintiff.
91 To cancel or set aside an instrument not otherwise provided for	Ditto	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him
92.—To declare the forgery of an instrument issued or registered.	Ditto	When the issue or registration becomes [illegible]n to the pla[illegible]

THE FIRST SCHEDULE—*contd.*

First Division: Suits—*contd.*

Description of suit.	Period of limitation.	Time from w[hich] period begi[ns] to run
	Part VI.—Three years—contd	
93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff.	Three years	The date of attempt
94.—For property which the plaintiff has conveyed while insane	Ditto ..	When the plainti[ff] is restored to sanity, and has knowledge of the conveyance
95.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud.	Ditto .	When the fraud becomes known to the party wronged
96—For relief on the ground of mistake.	Ditto ...	When the mistake becomes known to the plaintiff
97.—For money paid upon an existing consideration which afterwards fails	Ditto ..	The date of the failure.
98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto .	The date of the trustee's death, or, if the loss has not then resulted the date of the loss.

Description of suit	Period of limitation	Time from which period begins to run
	Part VI.—Three years—contd.	
For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue due from himself and his cosharers.	Three years	The date of the payment in excess of the plaintiff's own share
100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution	Ditto	When the right to contribution accrues
101.—For a seaman's wages	Ditto	The end of the voyage during which the wages are earned
102.—For wages not otherwise expressly provided for by this schedule.	Ditto	When the wages accrue due.
103.—By a Muhammadan for exigible dower (*mu'ajjal*)	Ditto	When the dower is demanded and refused or (where, during the continuance of the marriage, no such demand has been made) when the marriage is dissolved by de[illegible]

THE FIRST SCHEDULE—*contd*

FIRST DIVISION: SUITS—*contd*

Description of suit	Period of limitation.	Time from which period begins to run.
	Part VI.—Three years—contd	
104.—By a Muhammadan for deferred dower (*mu'ajjal*)	Three years ..	When the marriage is dissolved by death or divorce
105.—By a *mortgagor* after the mortgage has been satisfied, to recover surplus collections received by the mortgagee	Ditto ..	When the mortgagor re-enters on the mortgaged property.
106.—For an account and a share of the profits of a dissolved partnership.	Ditto ..	The date of the dissolution
107.—By the manager of a joint estate of an undivided family for contribution, in respect of a payment made by him on account of the estate	Ditto ...	The date of the payment
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease	Ditto ...	When the trees are cut down
109.—For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Ditto ..	When the profits are received

THE FIRST SCHEDULE—*contd*

FIRST DIVISION : SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run.
	Part VI.—Three years—contd.	
110.—For arrears of rent	Three years	When the arrears become due.
111.—By a vendor of immovable property for personal payment of unpaid purchase-money	Ditto	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance
112.—For a call by a company registered under any Statute or Act	Ditto	When the call is payable
113.—For specific performance of a contract	Ditto	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused
114.—For the rescission of a contract.	Ditto	When the facts entitling the plaintiff to have the contract rescinded first become known to him

THE FIRST SCHEDULE—*contd*

FIRST DIVISION—SUITS—*contd.*

	Description of suit	Period of limitation	Time from which period begins to run
		Part VI.—Three years—concld	
	115. For compensation for the breach of any contract, express or implied, not in writing registered and not herein specially provided for	Three years	When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (when the breach is continuing) when it ceases
		Part VII.—Six years	
	116. For compensation for the breach of a contract in writing registered	Six years	When the period of limitation would begin to run against a suit brought on a similar contract not registered
V of 1908	117.—Upon a foreign judgment as defined in the Code of Civil Procedure, 1908	Ditto	The date of the judgment
	118.—To obtain a declaration that an alleged adoption is invalid, or never, in fact, took place	Ditto	When the alleged adoption becomes known to the plaintiff

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd.*

Description of suit	Period of limitation	Time from which period begins to run.
	Part VII.—Six years—contd.	
119.—To obtain a declaration than an adoption is valid	Six years	When the rights of the adopted son, as such, are interfered with.
120.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto	When the right to sue accrues.
	Part VIII Twelve years.	
121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a patni taluk or other saleable tenure sold for arrears of rent.	Twelve years	When the sale becomes final and conclusive
122.—Upon a judgment obtained in British India, or a recognisance	Ditto	The date of the judgment or recognisance.
123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate	Ditto	When the legacy or share becomes payable or deliverable

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd*

	Description of suit	Period of limitation.	Time from which period begins to run
		Part VIII.—Twelve years—contd.	
124	For possession of an hereditary office	Twelve years	When the defendant takes possession of the office adversely to the plaintiff. *Explanation*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed
125	Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her re-marriage.	Ditto	The date of alienation

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION : SUITS—*contd*

Description of suit	Period of limitation	Time from which period begins to run.
	Part VIII – Twelve years— contd	
—By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property	Twelve years	When the alienee takes possession of the property
—By a person excluded from joint family property to enforce a right to share therein	Ditto	When the exclusion becomes known to the plaintiff.
.—By a Hindu for arrears of maintenance	Ditto	When the arrears are payable
—By a Hindu for a declaration of his right to maintenance	Ditto	When the right is denied
-For the resumption or assessment of rent-free land	Ditto	When the right to resume or assess the land first accrues
.—To establish a periodically recurring right	Ditto	When the plaintiff is first refused the enjoyment of the right.
2.—To enforce payment of money charged upon immovable property	Ditto	When the money sued for becomes due.

THE FIRST SCHEDULE—*contd*

First Division : Suits—*contd.*

Description of suit	Period of limitation	Time from which period begins to run
	Part VIII. Twelve years contd	
Explanation.—The allowances and fees respectively called *malikana* and *haqs* shall for the purpose of this article, be deemed to be money charged upon immovable property.		
133. To recover movable property conveyed or bequeathed *in trust*, deposited or pawned, and afterwards bought from the trustee, depositary or pawnee for a valuable consideration	Twelve years	The date of the purchase
134. To recover possession of immovable property conveyed or bequeathed in trust or mortgaged and afterwards transferred by the trustee or *mortgagee* for a valuable consideration	Ditto	The date of the transfer
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immovable property mortgaged.	Ditto ..	When the mortgagor's right to possession determines

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION: SUITS—*contd*

Description of suit.	Period of limitation	Time from which period begins to run
	Part VIII—Twelve years—contd	
36.—By a purchaser at a private sale for possession of immoveable property sold when the vendor was out of possession at the date of the sale	Twelve years	When the vendor is first entitled to possession.
37.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale	Ditto	When the judgment-debtor is first entitled to possession.
38.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was in possession at the date of the sale	Ditto	The date when the sale becomes absolute
39.—By a landlord to recover possession from a tenant	Ditto	When the tenancy is determined.
40.—By a remainderman, a reversioner (other than a landlord) or a devisee, for possession of immoveable property.	Ditto	When his estate falls into possession

THE FIRST SCHEDULE—*contd*

FIRST DIVISION SUITS—*contd.*

	Description of suit	Period of limitation	Time from w period beg to run
		Part VIII.—Twelve years—contd	
141	Like suit by a Hindu or Muhammadan entitled to the possession of immoveable property on the death of a Hindu or Muhammadan female	Twelve years	When the fe dies
142	For possession of immoveable property when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession	Ditto	The date of dispossession discontinuanc
143	—Like suit when the plaintiff has become entitled by reason of any forfeiture or breach of condition	Ditto	When the for ture is incurred the condition broken
144	.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for	Ditto	When the poss session of the d fendant becom adverse to th plaintiff
		Part IX.—Thirty years.	
145	.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years	The date of th deposit or pawn

THE FIRST SCHEDULE—*contd.*

FIRST DIVISION: SUITS—*contd.*

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part IX—Thirty years.	
146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged	Thirty years	When any part of the principal or interest was last paid on account of the mortgage-debt
146A.—By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession	Ditto	The date of the dispossession or discontinuance
	Part X.—Sixty years.	
147.—By a mortgagee for foreclosure or sale	Sixty years	When the money secured by the mortgage becomes due.
148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged.	Ditto	When the right to redeem or to recover possession accrues:

Description of suit	Period of limitation	Time from which period beg[ins] to run
	Part A Sixty years	
		Provided that claims to redee[m] arising under in[-]struments of mortgage of im[-]moveable propert[y] situate in Lower Burma which had been executed before the first day of May 18[..] shall be governed by the rules of limitation in force in that province immediately before the same day
49—Any suit by or on behalf of the Secretary of State for India in Council	Sixty years	When the period of limitation would begin to run under this Act against a like suit by a private person

THE FIRST SCHEDULE—*contd.*

SECOND DIVISION APPEALS.

Description of appeal.	Period of limitation.	Time from which period begins to run.	
—Under the Code of Criminal Procedure, 1898, from a sentence of death passed by a Court of Session	Seven days	The date of the sentence.	V o 190
—From a decree or order of any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction	Twenty days	The date of the decree or order.	
2 - Under the Code of Civil Procedure 1908, to the Court of a District Judge	Thirty days	The date of the decree or order appealed from	V o 1908
3 – Under the same Code to a High Court from an order of a Subordinate Court refusing leave to appeal to His Majesty in Council.	Ditto	The date of the order	
4.- Under the Code of Criminal Procedure, 1898, to any Court other than a High Court.	Ditto	The date of the sentence or order appealed from	

THE FIRST SCHEDULE—*contd.*

SECOND DIVISION APPEALS—*contd*

	Description of appeal.	Period of limitation	Time from which period begins to run
	155.—Under the same Code to a High Court, except in the cases provided for by article 150 and article 157.	Sixty days ..	The date of the sentence or order appealed from
V of 1908	156.—Under the Code of Civil Procedure, 1908, to a High Court, except in the cases provided for by article 151 and article 153	Ninety days ...	The date of the decree order appealed from
V of 1908.	157.—Under the Code of Criminal Procedure, 1898 from an order of acquittal	Six months .	The date of the order appealed from.

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION : APPLICATIONS.

Description of application	*Period of limitation.*	Time from which period begins to run.
158.—Under the Code of Civil Procedure, 1908, to set aside an award.	Ten days	When the award is submitted to the Court.
159.—For leave to appear and defend a suit under the summary procedure referred to in section 128 (2) (*f*) of the same Code	Ditto	When the summons is served.
160.—For an order under the same Code, to restore to the file an application for review rejected in *consequence of the* failure of the applicant to appear when the application was called on for hearing	Fifteen days	When the application for review is rejected.
161.—For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction	Ditto	The day of the decree or order
162.—For a review of judgment by any of the High Courts of Judicature at Fort William, Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma in the exercise of its original jurisdiction	Twenty days.	Ditto

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION—APPLICATIONS—*contd.*

	Description of application	Period of limitation	Time from which period begins to run
163	By a plaintiff for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs	Thirty days	The date of dismissal
164	By a defendant for an order to set aside a decree passed ex parte	Ditto	The date of the decree or, where the summons was not duly served when the applicant has knowledge of the decree
165	Under the Code of Civil Procedure, 1908 (V of 1908) by a person dispossessed of immoveable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree to be put into possession	Ditto	The date of the dispossession
166	Under the same Code to set aside a sale in execution of a decree	Ditto	The date of the sale
167	Complaining of resistance or obstruction to delivery of possession of immoveable property decreed or sold in execution of a decree	Ditto	The date of the resistance or obstruction

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION: APPLICATIONS—*contd.*

…scription of application.	Period of limitation.	Time from which period begins to run.	
—For the readmission of an appeal dismissed for want of prosecution	Thirty days ...	The date of the dismissal.	
—For the re-hearing of an appeal heard *ex-parte*	Ditto ..	The date of the decree in appeal or, where notice of the appeal was not duly served, when the applicant has knowledge of the decree.	
—For leave to appeal as a pauper.	Ditto ...	The date of the decree appealed from.	
—Under the Code of Civil Procedure, 1908, for an order to set aside an abatement.	Sixty days ..	The date of the abatement.	V of 1908.
2—Under the same Code by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal.	Ditto ..	The date of the order of dismissal.	
3.—For a review of judgment except in the cases provided for by article 161 and article 162.	Ninety days ...	The date of the decree or order.	

Description of application.	Period of limitation.	Time from which period begins to run.
174.—For the issue of a notice under the same Code to show cause why any payment made out of Court of any money payable under a decree or any adjustment of the decree should not be recorded as certified.	Ninety days	When the payment or adjustment is made.
175.—For payment of the amount of a decree by instalments.	Six months	The date of the decree.
176.—Under the same Code to have the legal representative of a deceased plaintiff or of a deceased appellant made a party.	Ditto	The date of the death of the deceased plaintiff or appellant.
177.—Under the same Code to have the legal representative of a deceased defendant or of a deceased respondent made a party.	Ditto	The date of the death of the deceased defendant or respondent.
178.—Under the same Code for the filing in Court of an award in a suit made in any matter referred to arbitration by order of the Court or of an award made in any matter referred to arbitration without the intervention of a Court.	Ditto	The date of the award.

escription of application	Period of limitation	Time from which period begins to run
—By a person desiring to appeal under the same Code to His Majesty in Council for leave to appeal	Six months	The date of the decree appealed from
—By a purchaser of immoveable property at a sale in execution of a decree for delivery of possession	Three years	When the sale becomes absolute.
—Applications for which no period of limitation is provided elsewhere in this schedule or by section 48 of the Code of Civil Procedure, 1908	Ditto	When the right to apply accrues
—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908	Three years, or, where a certified copy of the decree or order has been registered, six years.	1. The date of the decree or order, or 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or the withdrawal of the appeal, or 3. (where there has been a review of judgment) the date of the decision passed on the review, or

V o
1908

Description of application.	Period of limitation	Time from which period begins to run
182.—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908—*contd.*	Three years; or, where a certified copy of the decree or order has been registered, six years	4. (where the decree has been amended) the date of amendment, or 5. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court for execution, or to take some step in aid of execution of the decree or order, or 6. (where the notice next hereinafter mentioned has been issued) the date of issue of notice to the person against whom execution is applied for to show cause why the decree should not be executed against him, when the issue of such a notice is required by the Code of Civil Procedure, 1908, or

Description of application.	Period of limitation	Time from which period begins to run
182—For the execution of a decree or order of any Civil Court not provided for by article 183 or by section 48 of the Code of Civil Procedure, 1908—contd.	Three years; or, where a certified copy of the decree or order has been registered, six years	7. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date *Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 5 of this article shall take effect in favour only of such of the said persons or their representatives as it may be made by. But where the decree or order has been passed jointly in favour of more persons than one, such application, if made by any

Description of application.	Period of limitation	Time from which period begins to run.
—For the execution of a decree or order of any Civil Court not provided for by article 18 or by section 48 of the Code of Civil Procedure, 1908—*concld*	Three years; or, where a certified copy of the decree or order has been registered, six years.	*Explanation II.*—"Proper Court" means the Court whose duty it is to execute the decree or order.
—*To enforce a judgment*, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council	Twelve years	When a present right to enforce the judgment, decree or order accrues to some person capable of releasing the right Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing singed by the person liable to pay such principal or interest, or his agent, to the person entitl[illegible] to or hi[illegible]

THE FIRST SCHEDULE—*contd.*

THIRD DIVISION: APPLICATIONS—*contd.*

Description of application.	Period of limitation.	Time from whi[ch] period begin[s] to run
183.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of His Majesty in Council	Twelve years.	the twelve ye[ars] shall be comput[ed] from the date [of] such revivor, pa[y]ment or ackno[w]ledgment or th[e] latest of such re[vivors], payment[s] or acknowledg[ments], as the cas[e] may be

THE SECOND SCHEDULE.

TERRITORIES REFERRED TO IN SECTION 31.

(See section 31)

The Presidency of Fort St. George

The Presidency of Bombay

The Sambalpur District of the Bengal Division of the Presidency of Fort William

The United Provinces of Agra and Oudh

Burma.

The Central Provinces.

Ajmer-Merwara.

THE THIRD SCHEDULE

ENACTMENTS REPEALED

(See section 32)

ear.	No.	Short title.	Extent of repeal
1877	XV	The Indian Limitation Act, 1877.	The whole.
1877	XVII	The Punjab Courts Act, 1877.	So much as has not been repealed
1879	XII	The Registration and Limitation Acts Amendment Act, 1879	In the title the words "and the Limitation Act, 1877," and, after section 107, from the words "and whereas" to the end of the Act
1881	V	The Probate and Administration Act, 1881	Section 150.
1887	IX	The Provincial Small Cause Courts Act, 1887	Section 36
1888	VII	The Civil Procedure Code Amendment Act, 1888	In the title and in the preamble, the words "and the Indian Limitation Act, 1877," and of section 66 so much as has not been repealed
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.	In the title and in the preamble, the words "the Indian Limitation Act, 1877," and section 1.

THE THIRD SCHEDULE—*concld.*

ENACTMENTS REPEALED—*concld.*

(See section 32.)

Year.	No.	Short title.	Extent of repeal
1899	X	The Carriers Act, 1899.	Section 3.
1900	VI	The Lower Burma Courts Act, 1900.	So much of section 47 and the first schedule as relates to the Indian Limitation Act, 1877.
1900	XI	The Indian Limitation Amendment Act, 1900	The whole
1906	IV	The Presidency Small Cause Courts Act, 1906.	Section 5

Statement of Objects and reasons.

1. One immediate circumstance which has moved the Government of India to undertake legislation in connection with the Indian Limitation Act, 1877, is the hardship which has been caused to the holders of mortgages of immoveable property, in forms other than what is known as the English form, over a large part of India, by reason of the recent decision of the Judicial Committee of the Privy Council in the case of *Vasudeva* v *Srinivasa* (11 C W. N. 1905). In that case their Lordships, over-ruling the decisions of the High Courts of Bombay, Madras, and Allahabad, have advised that the period of limitation prescribed by the Indian Limitation Act, 1877, for suits to enforce payment of money secured by such mortgages, is twelve years as provided in article 132 of the Second Schedule of that Act, and not the longer period of sixty years prescribed by article 147 In the opinion of the Privy Council the latter article applies only to the class of mortgages in which a suit may be brought for "foreclosure or sale," that is, only to English mortgages. Previous to this decision for nearly aquarter of a century, the law had been held by the High Courts of Bombay and of Allahabad to be that every suit by a mortgagee either for foreclosure or for sale was governed by the sixty years' rule of limitation enacted in article 147, and the same view of the law had been accepted by the High Court of Madras and by some other High Courts The effect of the decision of the Privy Council has been that in the territories within the jurisdiction of the above High Courts a number of suits for the enforcement of mortgages, which, before the decision of the Privy Council, would have been within time, have been and must be dismissed by the Courts on the ground that they are barred by limitation, and that the claims under a still larger number of mortgages have become unenforceable owing to the construction thus put on the Statute of Limitation This result is undoubtedly hard on mortgagees who have relied on the view of the law f